STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1954
A10-1955
A10-1956
A10-1957

In the Matter of:
Muriel Minnie Jackson, petitioner,
Appellant,

vs.

Coco Shanelle Love,
Respondent (A10-1954, A10-1957),

Krystal White,
Respondent (A10-1955, A10-1956),

and

Coco Shanelle Love, petitioner,
Respondent (A10-1954, A10-1957),

Krystal Marie White, petitioner,
Respondent (A10-1955, A10-1956)

vs.

Muriel Minnie Jackson,
Appellant.

Filed August 1, 2011
Affirmed
Halbrooks, Judge

Dakota County District Court
File Nos. 19WS-CV-10-1080, 19WS-CV-10-1245
19WS-CV-10-1082, 19WS-CV-10-1244

Muriel Jackson, Inver Grove Heights, Minnesota (pro se appellant)

Coco Shanelle Love, Inver Grove Heights, Minnesota (pro se respondent)

Krystal Marie White, Inver Grove Heights, Minnesota (pro se respondent)

Considered and decided by Hudson, Presiding Judge; Halbrooks, Judge; and Bjorkman, Judge.

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

In this consolidated appeal, appellant challenges the district court's order granting each respondent a harassment restraining order (HRO) against her and denying her petition for an HRO against each respondent. Appellant argues the district court erred by crediting respondents' testimony and abused its discretion by granting an HRO to respondents on the basis of insufficient facts. We affirm.

FACTS

On July 23, 2010, appellant Muriel Minnie Jackson filed petitions for HROs against respondents Krystal Marie White and Coco Shanelle Love, who lived (at all times relevant to this appeal) in the same townhome complex as appellant. In her petition, appellant alleged that beginning on June 22, 2010, respondents harassed her in various ways, notably by putting flour in the gas tank of her car, threatening to put sugar in the gas tank, piling dirt on her back porch, making harassing phone calls to her, and threatening to flatten her tires. The district court issued a temporary HRO as to both petitions.

On August 24, 2010, White and Love filed petitions for HROs against appellant. White alleged that appellant had been harassing her since June 22, 2010, when appellant and another woman threatened White; appellant repeatedly threatened her and harassed her children; appellant had falsely accused her of putting flour in appellant's gas tank; and appellant made her fear for her life and her daughter's life. Love alleged that appellant had been harassing her since June 22, 2010, when appellant and six other people tried to break down Love's door in the middle of the night; appellant threw trash in Love's yard; appellant repeatedly threatened Love and harassed her children; and appellant had falsely accused Love of putting flour in appellant's gas tank. The district court issued each respondent a temporary HRO and scheduled a hearing.

At the hearing, appellant testified that respondents had put flour on her car and oil in her car's gas tank on June 22. She testified that after she started telling people what she believed respondents had done, they began retaliating against her by putting dirt on her back porch, by Love's brother threatening her, and by watching her whenever she left her house. Appellant asked the district court to telephone the Inver Grove Heights Police Department (from the hearing) to speak with a certain police officer who, appellant claimed, had responded to multiple false calls from respondents and who would corroborate appellant's version of the events of June 22.

Love testified that early in the morning of June 22, 2010, appellant came to her house and asked Love if she had seen anyone tampering with appellant's car, which, appellant said, had flour on it. Love testified that, after she told appellant she had not seen anyone near appellant's car, appellant left and returned at approximately 3:15 a.m.

with five other people (one of whom had a baseball bat), who damaged the door by striking it with the bat and their feet. Love testified that she filed a police report concerning the damage to the door. Love stated that her children had been frightened since the door incident and that appellant has harassed Love in various ways since then, culminating in an incident on August 25 when appellant tried to run over Love and White with her car.

White testified that Love had called her early in the morning of June 22 and that during the call, she could clearly hear in the background someone pounding on Love's door. White stated that appellant had threatened her and Love since June 22, and had attempted to run them over with her car on August 25. White denied having threatened to pour sugar in appellant's gas tank.

Appellant denied that she went to Love's house with six people on June 22; she admitted going to Love's house that night but stated that she had gone there with just one other friend, who was looking for a stolen video game. Appellant testified that Love's children are not afraid of appellant and denied that she tried to hit respondents with her car.

The district court found that based on the entirety of the record there was not enough evidence to grant appellant's HROs; the court observed that appellant had not produced sufficient testimony to carry her burden of proof and that she concededly did not have first-hand knowledge or witness testimony concerning who had put flour or other substances in or on her car. The court granted respondents' petitions for HROs, finding that appellant made an uninvited visit to Love's home on June 22, where she

exhibited threatening conduct directly to Love and indirectly to White and that appellant had exhibited threatening conduct toward both respondents with her vehicle on August 25. This appeal follows.

D E C I S I O N

Neither respondent submitted a brief. Minn. R. Civ. App. P. 142.03 provides that in such circumstances, "the case shall be determined on the merits."

A district court may issue an HRO "ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person" if the district court finds "that there are reasonable grounds to believe that the respondent has engaged in harassment." Minn. Stat. § 609.748, subd. 5(a) (2008). "Harassment," as the term is used in the statute, is defined in relevant part as "repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target." Minn. Stat. § 609.748, subd. 1(a)(1) (2008). A district court may grant an HRO if, among other things, the district court finds "reasonable grounds to believe that the [person] has engaged in harassment." Minn. Stat. § 609.748, subd. 5(a)(3).

To sustain an HRO petition, the petitioner must prove (1) "'objectively unreasonable conduct or intent on the part of the harasser'" and (2) "'an objectively reasonable belief on the part of the person subject to harassing conduct.'" *Peterson v. Johnson*, 755 N.W.2d 758, 764 (Minn. App. 2008) (quoting *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *review denied* (Minn. Mar. 28, 2006)).

On review, "[a] district court's findings of fact will not be set aside unless clearly erroneous, and due regard is given to the district court's opportunity to judge the credibility of witnesses." *Kush v. Mathison*, 683 N.W.2d 841, 843–44 (Minn. App. 2004) (citing Minn. R. Civ. P. 52.01), *review denied* (Minn. Sept. 29, 2004). "Findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made." *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999) (quotation omitted). But whether the facts as found by the district court meet the definition of harassment is a question of law, which this court reviews de novo. *Peterson*, 755 N.W.2d at 761. "Ultimately, the issuance of an HRO is reviewed for abuse of discretion." *Id.*

I.

Appellant argues that the district court's decision was erroneously based on respondents' false testimony, which would have been impeached had the district court agreed to call the Inver Grove Heights police from the hearing to corroborate appellant's version of disputed events. Had the district court done so, appellant contends, "the matter would have been resolved differently." Appellant does not allege that she came to the hearing with a statement from the police or that she attempted to produce a police witness at the hearing. She is objecting to the district court's refusal to call the officer from the hearing to obtain a statement, a decision she concedes was "completely up to the court[']s discretion."

As appellant observes, evidentiary rulings are generally left to the sound discretion of the district court and will be sustained on appeal unless the ruling is an abuse of

discretion. *State v. Schulz*, 691 N.W.2d 474, 477 (Minn. 2005). Although appellant suggested at the hearing that the police could establish that respondents' testimony was false, she does not indicate what evidence the police would present to help her to meet her burden or explain how she was prejudiced by the district court's refusal to act on her request. We cannot, on this record, conclude that the district court abused its broad discretion in evidentiary matters by refusing to grant appellant's request to contact the police during the hearing. On the perjury issue, the district court had the opportunity at the hearing to judge the credibility of the witnesses, and the district court concluded that respondents' testimony was credible. We defer to the district court's ability to evaluate witness credibility. *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008).

II.

Appellant argues that the district court ignored evidence in reaching its conclusion. Specifically, she contends that the district court disregarded, or did not credit, various aspects of her testimony and erroneously credited respondents' testimony, which appellant claims contained numerous inconsistencies. Given the broad deference afforded the district court's credibility determinations and weighing of evidence, we conclude that the court's findings are supported by the record and are not clearly erroneous.

III.

Appellant argues that her rights under the Confrontation Clause of the Sixth Amendment of the United States Constitution were violated because she was not allowed to view a written statement that Love presented to the district court concerning

appellant's harassing behavior. The record indicates that the document was not admitted into evidence.

The Confrontation Clause concerns the right of the accused "[i]n all criminal prosecutions . . . to be confronted with the witnesses against him." U.S. Const. amend. VI. It does not apply to documents that were not received in evidence in a civil proceeding. Appellant's argument on this issue is therefore unavailing.

Finally, we note that appellant included several documents with her briefs, including witness affidavits and police incident reports, that were prepared after the September 7, 2010 HRO hearing and never submitted to the district court. Because these documents are not part of the district court record, we cannot consider them, and we have restricted our review to only those documents that are part of the district court record. *See Fabio v. Bellomo*, 489 N.W.2d 241, 246 (Minn. App. 1992) (stating that this court will strike documents included in appellate brief that were not filed in district court), *aff'd*, 504 N.W.2d 758 (Minn. 1993).

Affirmed.