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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0495**

Deanna Jo Helget, petitioner,
Respondent,

vs.

Dustin Meier,
Appellant.

**Filed October 15, 2013
Affirmed
Halbrooks, Judge**

Brown County District Court
File No. 08-CV-12-1133

Peter J. Hemberger, Gislason & Hunter LLP, New Ulm, Minnesota (for respondent)

Ryan B. Magnus, Jennifer Thon, Jones and Magnus, Mankato, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Johnson, Chief Judge; and Halbrooks, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

On appeal from the district court's harassment-restraining order (HRO), appellant argues that the HRO should be reversed because (1) the evidence does not prove repeated incidents of intrusive conduct; (2) the evidence does not prove that his intrusive conduct had a substantial and adverse effect on respondent; and (3) the district court was required,

but failed, to find that there was an immediate and present danger of harassment. Because it was within the district court's discretion to issue the HRO, we affirm.

FACTS

In 2012, respondent Deanna Jo Helget and appellant Dustin Meier were enrolled at South Central College in North Mankato where they both participated in the college's student senate. Helget was elected to the student senate in the fall of 2011, and Meier was elected to the senate in the spring of 2012. Through their participation in the student senate, Helget and Meier became friends.

In April 2012, several members of the student senate, including Helget and Meier, attended a weekend conference at a resort near Brainerd. While Helget initially decided not to attend, she changed her mind when other friends encouraged her to go. When Meier learned of Helget's decision to attend, he stated, "You'll go for them, but you won't go for me." This comment made Helget uncomfortable.

Upon arriving at the conference, Helget connected with an old male friend. This "instantly" upset Meier. Meier subsequently began sending text messages to Helget, inquiring about her whereabouts, and asked Helget's friends about Helget's activities at the conference. The first evening of the conference, Meier approached Helget and inquired about the possibility of the two dating. Helget stated that she was not interested. Later that evening, Helget received "lots of text messages" from Meier asking, "[W]here are you, what are you doing?"

Helget's friend sent a text message to Meier from Helget's phone suggesting that he leave Helget alone. At this point, "[Meier] was mad and getting angrier" and sent a

series of threatening and angry text messages to Helget. Helget responded to Meier: “[Y]ou’re scaring me, leave me alone.” Meier also left a voice message on Helget’s phone that evening stating, “I have the experience, I will end you. If you swing at me, it will be the last thing that you do.” Meier continued to send unwanted text messages to Helget throughout the weekend. In several of those messages, Meier demanded to know with whom she had spent the night.

The following week, Helget talked to Meier in an attempt to “bury the hatchet” and move on from the incidents at the conference. In that conversation, Meier asked Helget to delete the messages he had sent. Helget deleted the text messages, but did not delete Meier’s voice messages. Helget’s phone retained copies of the deleted text messages.

That summer, Helget was withdrawn and depressed. When she returned to campus in September, Helget was anxious and fearful of Meier. She avoided Meier “at all costs” for fear he would confront her.

In November 2012, the student senate held a mediation session to address the parties’ conflicts and the incidents at the conference. The mediation did not resolve Helget’s fear or concerns. She resigned from the student senate because she “did not feel safe” as a result of Meier’s conduct at the conference.

In December 2012, Helget filed a petition for an HRO against Meier. The district court issued a temporary restraining order (TRO) and held an evidentiary hearing on the petition. Meier admitted that he sent 76 text messages to Helget over the course of the conference, that some of the text messages were threatening, and that in one message he

stated: “I will end you.” The district court issued an HRO against Meier, finding that there were reasonable grounds to believe that Meier harassed Helget by sending harassing messages to her phone and threatening her. Meier appeals the HRO.

D E C I S I O N

We review the district court’s grant of an HRO for an abuse of discretion. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), *review denied* (Minn. Sept. 29, 2004). We review the district court’s findings for clear error. *Id.* But whether the facts found by the district court satisfy the statutory elements of harassment is a question of law, which we review de novo. *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008), *review denied* (Minn. Sept. 16, 2008).

An HRO may be granted if there are “reasonable grounds to believe that the actor engaged in harassment.” Minn. Stat. § 609.748, subd. 5(a)(3) (2010). Harassment includes “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.” *Id.*, subd. 1(a)(1) (2010).

Meier argues that the evidence is insufficient to establish that he committed repeated incidents of intrusive or unwanted conduct. But the district court found, and Meier admits, that he sent 76 messages, some of which were threatening, to Helget during the two-day conference. Meier does not dispute these findings. Instead, he invites us to characterize his conduct as a single incident. But the fact that Meier sent the messages over the course of a single weekend while the parties attended a conference does nothing to alter the repeated nature of his conduct. We discern nothing erroneous

about the district court's finding that Meier engaged in multiple, repeated intrusive or unwanted acts.

Meier also argues that the evidence is insufficient to establish that his conduct had a substantial adverse effect on Helget's safety, security, or privacy. "The determination of whether certain conduct constitutes harassment may be judged from both an objective standard, when assessing the effect the conduct has on the typical victim, and a subjective standard, to the extent the court may determine the harasser's intent." *Kush*, 683 N.W.2d at 845.

The record provides ample support for the district court's finding that Meier's conduct had a substantial adverse impact on Helget's safety, security, or privacy. There is no dispute that Meier threatened Helget's life when he stated: "I have the experience, I will end you." Helget testified that this message frightened her and that, based on past conversations with Meier, she believed that Meier had training in how to use weapons and had access to weapons. Helget stated that she continued to fear for her safety in the fall of 2012, several months after the conference. She further testified that her academic performance declined and that she was withdrawn and anxious as a result of Meier's threats. This evidence is sufficient to support the district court's conclusion that Meier's intrusive or unwanted messages had a substantial adverse impact on Helget's safety, security, and privacy. That Meier's conduct would have this effect on Helget is objectively reasonable under the circumstances.

Meier also argues that the district court erred by issuing an HRO without finding "an immediate and present danger of harassment." Meier acknowledges that the HRO

statute does not expressly require this finding for issuance of an HRO. But he argues that it is “implicitly” included as an element of harassment because it is required for issuance of a TRO.

“[S]tatutory construction is a question of law, which we review de novo.” *Lee v. Lee*, 775 N.W.2d 631, 637 (Minn. 2009). “The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16 (2012). “If the meaning of a statute is unambiguous, we interpret the statute’s text according to its plain language.” *Brua v. Minn. Joint Underwriting Ass’n*, 778 N.W.2d 294, 300 (Minn. 2010). An ex parte TRO may be obtained if the district court finds reasonable grounds to believe the actor has engaged in harassment *and* the petitioner alleges “an immediate and present danger of harassment.” Minn. Stat. § 609.748, subd. 4(a) (2010). An HRO may be obtained upon a finding that there are reasonable grounds to believe the actor has engaged in harassment. *Id.*, subd. 5(a)(3).

The harassment statute does not state that a petitioner must allege an immediate and present danger of harassment to obtain an HRO. Meier’s argument that the legislature intended to include “an immediate and present danger of harassment” as an additional element of harassment is unavailing. The fact that the legislature created a separate subsection governing TROs—which provides that the “petition must further allege an immediate and present danger of harassment before the court may issue a [TRO],” *id.*, subd. 4(a)—reflects the legislature’s decision *not* to require that allegation for issuance of an HRO, which is governed by a different statutory subsection. The plain

language of the HRO statute does not require that the petitioner allege or the district court find an immediate and present danger of harassment before an HRO may be issued.

Because the record supports the district court's determination that reasonable grounds exist to believe that Meier engaged in harassment, it was within the district court's discretion to issue the HRO.

Affirmed.