COURT OF APPEALS
DECISION
DATED AND FILED

September 17, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No. 98-1163-FT

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

REBEKAH ADERMAN,

PETITIONER-RESPONDENT,

V.

RONALD GREENWOOD,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for :La Crosse County: DENNIS G. MONTABON, Judge. *Affirmed.*

Before Dykman, P.J., Vergeront and Roggensack, JJ.

PER CURIAM. Ronald Greenwood appeals from an order for a two-year harassment injunction. The issue is whether the trial court heard sufficient evidence to find that Greenwood violated § 947.013, STATS., in his

contacts with Rebekah Aderman. We conclude that the evidence was sufficient, and affirm.[1]

Greenwood and Aderman dated until March 1997. Aderman testified that during the summer of 1997 Greenwood would look for her in various places and show up uninvited on occasion, when she was visiting friends. At times when she saw Greenwood she would have to threaten to call the police to get him to leave. Essentially, she described it as a situation where "I kind of just wanted some distance and he did not really want to give me some distance."

There was little contact until December 1997 when Aderman was hosting a party in her home. Greenwood appeared uninvited at about 2:30 a.m. When he saw another man kiss Aderman, he shoved her into or up against a refrigerator. After an argument, he left.

In his testimony Greenwood admitted shoving Aderman, but disputed that it was a hard shove. He denied doing it out of jealousy, stating that he was instead doing it to protect her from the man kissing her. He also described their contacts since March 1997 as substantially less hostile than Aderman described them. He denied looking for her, instead characterizing their meetings as chance encounters.

Aderman commenced this proceeding by filing a petition for a harassment injunction against Greenwood under § 813.125, STATS., alleging that the behavior described above violated § 947.013, STATS., and made her feel threatened. Section 813.125(4) provides in relevant part that the trial court may

[1] This is an expedited appeal. *See* RULE 809.17, STATS.

grant an injunction ordering the respondent to cease or avoid harassing another person if the court finds reasonable grounds to believe that the respondent has violated § 947.013. In § 947.013(1m)(a) a violation occurs when one strikes, shoves, kicks or otherwise subjects a person to physical contact. In § 947.013(1m)(b) a violation occurs when one engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose. Subsections 813.125(1)(a) and (b) contain virtually identical provisions in that section's definition of harassment.

Applying those statutory standards, the trial court found a violation entitling Aderman to an injunction. The resulting order barred Greenwood from shoving or striking Aderman, writing her letters, stalking her or calling her on the phone. It did not bar him from visiting Aderman's housemates.

Greenwood first argues that a single incident of physical contact between him and Aderman cannot constitute harassment under § 813.125, STATS. He cites ***Bachowski v. Salamone***, 139 Wis.2d 397, 408, 407 N.W.2d 533, 537 (1987), for the proposition that "single isolated acts" do not constitute harassment. However, in ***Bachowski*** the supreme court was addressing the legislative intent behind § 813.125(1)(b), which defines harassment as a "course of conduct" or repeated acts. Here the applicable provision is § 813.125(1)(a) and its counterpart, § 947.013(1m)(a), STATS., which address violent behavior without the qualifications in § 813.125(1)(b). Consequently, they plainly allow an injunction for even one incident of striking, shoving or physical contact. No other reasonable interpretation of those sections is available. The single act of physical contact that occurred in December 1997 was therefore sufficient to warrant issuing the injunction.

Greenwood next argues that the court heard insufficient evidence to find that Greenwood intended to harass or intimidate Aderman when he shoved her. For purposes of § 947.013, STATS., intent means "that the actor either has a purpose to do the thing or cause the result specified, or is aware that his or her conduct is practically certain to cause that result." Section 939.23(4), STATS. Intent is nearly always proven by circumstantial evidence and by inference from the acts and statements of the person and the circumstances. ***W.W.W. v. R.J.S.***, 185 Wis.2d 468, 489, 518 N.W.2d 285, 292 (Ct. App. 1994). If the trial court's inference on this factual issue is reasonable, we must accept it, even if other inferences are also reasonable. ***Id.***

Here the evidence allowed the trial court to reasonably infer that Greenwood intended to intimidate Aderman. On other occasions, according to testimony, Greenwood had acted like a jealous, spurned boyfriend who could not accept the end of his relationship with Aderman. Under those circumstances, the trial court could reasonably infer that Greenwood shoved Aderman with the intent of controlling her, and her relations with other men, through intimidation.

Finally, Aderman asserts that the appeal is frivolous either because Greenwood filed it in bad faith or, alternatively, that it lacks any reasonable basis in fact or law. We find no support in the record for bad faith allegations by Greenwood. We do not conclude that the appeal is so lacking in merit that it approaches the frivolous standard. Therefore we do not find that Greenwood's appeal is frivolous and we deny the motion for costs and fees.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.