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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-2156
A12-0771**

In re the Marriage of:
Jeremy Quinton Banken, petitioner,
Respondent,

vs.

Lea Jean Banken,
Appellant.

**Filed February 11, 2013
Affirmed in part and reversed in part
Ross, Judge**

Carver County District Court
File Nos. 10-FA-09-413; 10-FA-09-452

Christopher M. Banas, Banas Family Law, P.A., Lilydale, Minnesota (for respondent)

Lea J. Banken, Waconia, Minnesota (pro se appellant)

Considered and decided by Schellhas, Presiding Judge; Ross, Judge; and Rodenberg, Judge.

UNPUBLISHED OPINION

ROSS, Judge

These consolidated appeals arise from a contentious dissolution proceeding and the issuance of a harassment restraining order. Our best construction of the appellate pleadings leads us to understand that Lea Banken asks us to review the parenting-time

aspects of an interim district court order issued after the trial and the final judgment. She also asks us to review the court's property division in the final judgment, a September 2010 temporary order prohibiting her from engaging in certain internet activity, a contempt order finding her in constructive civil contempt of court for failing to comply with the September 2010 order, and the grant of respondent Jeremy Banken's petition for a harassment restraining order against her. To the extent that the order finding Lea in contempt of court is based on her conduct that does not violate the September 2010 temporary order to which she stipulated, we reverse the district court in part. Because the record supports the district court's findings of fact on her other challenges, and because Lea has not shown that the district court otherwise misapplied the law or abused its discretion, we affirm in part.

FACTS

Lea and Jeremy Banken married in 2004. They had a daughter, M.T.B., and a son, I.Q.B. Jeremy petitioned for marriage dissolution in 2009 while Lea was pregnant with their third child.

In September 2010, Jeremy moved the district court to order temporary relief directing Lea to remove an internet posting from her Facebook page and other postings that included personal information about Jeremy and the children. He also sought to prohibit Lea from engaging in similar online activity in the future. The district court granted Jeremy's motion based on a stipulation by the parties.

The dissolution action proceeded to trial in May 2011. The district court heard testimony from Lea, Jeremy, the children's therapist, Lea's therapist, the parties' custody

evaluator, a neighbor, the guardian ad litem, and a property evaluator. Among the many matters addressed at trial was a recent event involving the couple's son mutilating a dog with a gardening tool (either cutting off its tail or severing its spine—both descriptions were given but no finding clarifies what really happened) while in Lea's care. At the close of trial, the district court judge stated that he was placing the current parenting plan on "lockdown" and would draft an interim order specifying parenting time.

A week after the trial, the district court filed an interim order that suspended all of Lea's previously ordered parenting time and allowed her only supervised parenting time. The order directed Lea to complete a psychological evaluation conducted by professionals selected by social services and required an update in July 2011 addressing Lea's contact with the children, Lea's psychological evaluation, the children's and Lea's therapy sessions, and a plan for expanding or contracting Lea's parenting time. Social services submitted the July report on schedule, and, based on it, the district court entered a second interim order that continued the May order's requirements and scheduled a review hearing in September.

Jeremy moved the district court to hold Lea in contempt of the September 2010 temporary order that had restricted her online conduct. Lea admitted to having violated the order. As a result, the district court issued a conditional contempt order on August 5, 2011, finding Lea in constructive civil contempt. The conditional contempt order allowed Lea to purge the contempt determination in part by removing all online postings that contained her commentary or opinion regarding the dissolution. That same day, the district court issued its final judgment and decree on the dissolution action. The decree

continued the supervised parenting time for Lea as stated in the May and July interim orders. It also divided the parties' marital property and incorporated the September 2010 temporary order and the conditional contempt order.

In September 2011, social services submitted another report on parenting-time issues. The report stated that social services had been unable to schedule parenting time with Lea because of its concern over the children's safety. The report offered conditions for resuming Lea's parenting time, including that she complete a psychological examination and sign an agreement with the parenting-time supervisor. The district court conducted a parenting-time review hearing that same month as required by the decree.

The district court entered an amended final judgment and decree after the September review hearing. It imposed conditions for Lea to resume parenting time. It also incorporated the September 2010 temporary order and the conditional contempt order. Jeremy later submitted an affidavit requesting entry of judgment against Lea because she continued to post entries on her blog that violated the September 2010 temporary order and the conditional contempt order. The district court granted Jeremy's request for judgment in November 2011.

Lea moved the district court for amended findings, conclusions, and judgment and a new trial. The district court denied her motions. Three months later, Jeremy successfully petitioned for a harassment restraining order against Lea.

These appeals follow.

DECISION

I

Lea Banken argues that the district court unlawfully restricted her parenting time and then imposed improper conditions on the resumption of parenting time. The district court has broad discretion in deciding parenting-time questions based on the best interests of the children and will not be reversed absent an abuse of discretion. *Olson v. Olson*, 534 N.W.2d 547, 550 (Minn. 1995). A district court abuses its discretion by making findings unsupported by the evidence or improperly applying the law. *Hagen v. Schirmers*, 783 N.W.2d 212, 215 (Minn. App. 2010). A district court's findings of fact on which a parenting-time decision is based will be upheld unless they are clearly erroneous. *Griffin v. Van Griffin*, 267 N.W.2d 733, 735 (Minn. 1978).

A. The district court did not unlawfully restrict Lea's parenting time.

1. Minnesota Statutes section 518.131, subdivision 2(a) (2012).

Lea contends that the district court's final judgment violated Minnesota Statutes section 518.131, subdivision 2(a), by impermissibly restricting her parenting time. But section 518.131 applies only to temporary orders, not to final judgments. *See* Minn. Stat. § 518.131, subd. 9(a) (2010) (stating that temporary orders shall not prejudice rights litigated in subsequent proceedings). We are not persuaded by Lea's challenge to that portion of the final judgment that incorporates the terms of the May interim order. A temporary order may deny parenting time to a parent if "the court finds that parenting time is likely to cause physical or emotional harm to the child." *Id.*, subd. 2(a). Although the May 2011 interim order lacks this express finding, the failure to make statutory

findings is not grounds for reversal if the record as a whole would support the finding. *Gregory v. Gregory*, 408 N.W.2d 695, 698 (Minn. App. 1987). So we turn to the question of whether the record would support a finding of likely harm.

We have no difficulty concluding that the record would support the requisite finding that unrestricted parenting time with Lea is likely to cause emotional harm to the children. The district court heard Lea, Jeremy, and the children's therapist testify that the couple's young son had recently mutilated a dog while in Lea's care. The therapist testified without dispute that the son openly described the mutilation and then immediately blurted this spontaneous account revealing Lea's disturbing attempted emotional manipulation of the child: "Mommy said it is not my fault. She said that daddy made me do it, but he didn't, daddy didn't make me do it." The therapist concluded, with self-evident reasonableness, that Lea's parenting time should be supervised immediately, and she made a child-protection report of the encounter. Because the record is sufficient to support the interim order, the district court did not abuse its discretion in ordering that Lea's parenting time be supervised.

2. *Minnesota Statutes section 518.175, subdivision 1(a) (2012).*

Lea also contends that the final judgment and decree violates the portion of Minnesota Statutes section 518.175, subdivision 1(a), requiring the district court to grant parenting time that enables a parent and child to maintain a relationship in the best interests of the child. But if the district court finds that parenting time is likely to endanger a child's physical or emotional health or development, the district court "*shall* restrict parenting time with that parent as to time, place, duration, or supervision and may

deny parenting time entirely.” *Id.* (emphasis added). The district court found that “troubling behavior has occurred that makes clear that the children, at least the older two, are in serious need of therapy/counseling,” that “the adjustment of the children to the dissolution of this marriage is troublesome,” and that Lea refused to allow the children to see their therapist after the trial. These findings are supported by evidence in the record. For example, the district court learned that Lea had been observed making statements critical of the court’s parenting-time restrictions. It also learned that Lea admitted that she had been in contact with mothers who had fled the United States with their children in violation of court orders. It found that Lea continues to falsely accuse Jeremy of child abuse. The district court heard that she has falsely accused him also of using and transporting drugs, hiring prostitutes, living with another woman, embezzling money, molesting his children, and sleeping with and abusing animals. In addition, the concerns arising from the dog-mutilation incident, among others in the record that we need not elaborate on here, satisfy us that the district court did not clearly err by implicitly finding that Lea’s parenting time was likely to endanger the emotional health of the children.

Lea also contends that the district court failed to afford her a hearing required by the statute before restricting her parenting time. We reject this argument as it lacks factual merit. Lea was afforded a hearing; before the district court entered the final judgment, Lea participated in a four-day trial that encompassed parenting-time issues, and she participated in a parenting-time review hearing in September 2011. Given the extent of the process afforded for parenting-time questions during and after trial, the claimed procedural shortcoming is, at most, harmless. *See Kallio v. Ford Motor Co.*, 407

N.W.2d 92, 98 (Minn. 1987) (stating that, to obtain a reversal, an appellant must show error by the district court and prejudice arising from that error); Minn. R. Civ. P. 61 (requiring harmless error to be ignored).

B. The conditions imposed are not unlawful.

Lea next contends that the conditions imposed by the district court for her to resume parenting time are excessive and contrary to statute. She challenges, in particular, the requirement that she obtain a psychological evaluation from someone other than her treating psychiatrist and sign an agreement with the parenting-time supervisor. We recognize that the prerequisites here are not customary and may seem onerous. In other circumstances, they might be excessive. But we have observed that the district court has extensive discretion when deciding issues relating to parenting time, *Olson*, 534 N.W.2d at 550, and the ultimate question in all parenting-time disputes is what is in the best interests of the children, *Clark v. Clark*, 346 N.W.2d 383, 385 (Minn. App. 1984), *review denied* (Minn. June 12, 1984). A complete, contingent, or temporary denial of parenting time is warranted when a child's emotional health is endangered. *See D.A.H. v. G.A.H.*, 371 N.W.2d 1, 4 (Minn. App. 1985), *review denied* (Minn. Sept. 19, 1985). Most persuasive here is the well-supported matter of endangerment and likely harm to the children, triggering the district court's prophylactic safeguards. We add that the unusual decision to require Lea to provide input from a psychological professional other than her own therapist arises from the unusual, factually baseless report by Lea's treating psychologist asserting that Jeremy had manipulated the court system. Lea is correct in implying that the district court's authority is not limitless, but the extremes in this case

respond proportionately to extreme behavior. And the district court's conditions are not inconsistent with prior decisions. *See, e.g., D.A.H.*, 371 N.W.2d at 4 (requiring father to undergo intensive psychotherapy before resuming parenting time). Lea's additional contention that she cannot afford to comply with the conditions is refuted by her own testimony at trial, which indicated that she is capable of working full time. We conclude that the district court did not abuse its discretion by imposing its parenting-time preconditions on Lea.

II

Lea challenges the district court's division of marital property. Upon the dissolution of a marriage, the district court must make a just and equitable, but not necessarily equal, division of the marital property between the former spouses. Minn. Stat. § 518.58, subd. 1 (2010); *White v. White*, 521 N.W.2d 874, 878 (Minn. App. 1994). The district court bases its property-division findings "on all relevant factors," including those listed in Minnesota Statutes section 518.58, subdivision 1. A district court has broad discretion in evaluating and dividing property and will not be overturned except for an abuse of discretion. *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002).

Lea argues that the district court's division of property was an unjust abuse of discretion because it awarded her "none" of the money, property, assets, or equity in the homestead after applying "offsets." The district court awarded Lea one-half of the marital interest in Jeremy's business, Jeremy's 401K, and the equity in the marital homestead, totaling \$72,238.50. We notice one inconsistency in the district court's findings regarding Lea's equity interest in the marital homestead: to the extent Lea argues that she was not

awarded any cash to cover her interest in the marital homestead, the property evaluator determined that interest to be \$273.50—an amount we deem de minimis in the context of the overall property division. *See Wibbens v. Wibbens*, 379 N.W.2d 225, 227 (Minn. App. 1985) (refusing to remand for a de minimis error). The district court reduced Lea’s share by an amount that corresponded to Jeremy’s payments of Lea’s share of the marital debt, Lea’s liquidating of retirement accounts and marital property during the dissolution without Jeremy’s or the court’s permission, Jeremy’s one-half interest in Lea’s vehicle, Jeremy’s payment of some of Lea’s attorney fees, Jeremy’s incurring of attorney fees to secure the contempt order, and Lea’s owing of fees for the parties’ custody evaluator and parenting consultant. This reduction comports with the law. *See* Minn. Stat. § 518.58, subd. 1a (allowing district court to compensate a party if one party disposes of marital assets without consent and may impute the entire value of an asset and a fair return on it to the party who disposed of it); *Dahlberg v. Dahlberg*, 358 N.W.2d 76, 80 (Minn. App. 1984) (noting that debts are divided in the same manner as assets). Although the district court concluded that, in effect, “[Jeremy] has ‘overpaid’ [Lea] \$19,668.08,” it declined to require Lea to repay this amount. The record suggests therefore that Lea received more, not less, than an equal share of the marital property.

Lea also argues that the district court failed to compensate her for her contributions as homemaker. The statute requires only that the district court “consider . . . the contribution of a spouse as a homemaker.” Minn. Stat. § 518.58, subd. 1. And here, the district court did just that. It found that Lea was the primary caretaker of the children, and it allocated to her cash interests in Jeremy’s business and 401K, and it gave her

equity in the marital homestead, declining to require her to repay the roughly \$20,000 overpayment. This more-than-equal allocation accounted for her homemaker contribution.

Lea next argues that the district court ignored the statute's requirement that it consider the income of each party when dividing marital property. The district court's order belies this assertion. It found that Jeremy is employed as president and owner of his landscape corporation and it stated his income for 2010. The district court also found that Lea was unemployed for the majority of the dissolution proceedings, had obtained part-time employment for \$13 hourly, is capable of full-time employment, and, at some point during the marriage, had earned over \$100,000 annually. Cognizant of the financial circumstances, including "the disparity of earnings, earning power, likelihood [that Jeremy] will end up paying most of marital debt even if allocated equally between the parties," the district court noted its authority to fashion an equitable division of property under section 518.58 and it did so, choosing not to require Lea to repay the nearly \$20,000 overpayment.

Finally, Lea suggests that the property division resulted from the district court's frustration with her refusal to discontinue her online activity. She fails to support that speculation with any factual support or convincing argument. *See Schoepke v. Alexander v. Smith & Sons Carpet Co.*, 290 Minn. 518, 519–20, 187 N.W.2d 133, 135 (1971) ("An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal unless

prejudicial error is obvious on mere inspection.”). We hold that the district court neither misapplied the law nor abused its discretion when dividing the marital property.

III

Lea challenges the district court’s restrictions on her online activity. Lea first appears to argue that the September 2010 temporary order unconstitutionally limited her free speech rights protected by the First Amendment. But a legal right, even a constitutional right, generally may be waived. *State ex rel. Johnson v. Indep. Sch. Dist. No. 810, Wabash Cnty.*, 260 Minn. 237, 246, 109 N.W.2d 596, 602 (1961). The district court based its September 2010 temporary order restricting Lea’s speech on its “review of [the] submissions and exhibits by [Jeremy], and the other files, pleadings, and arguments of counsel, and *based on the stipulation of the parties.*” A “stipulation” is a voluntary agreement between parties. *See Black’s Law Dictionary* 1550 (9th ed. 2009). The district court file does not include a transcript of the hearing or a document constituting the parties’ stipulation, but we do not presume an error in the absence of an adequate record. *Custom Farm Servs., Inc. v. Collins*, 306 Minn. 571, 572, 238 N.W.2d 608, 609 (1976). Nor can we address any assertion that Lea did not waive her free speech rights as set out in the stipulated order. *See Valspar Refinish, Inc. v. Gaylord’s, Inc.*, 764 N.W.2d 359, 367 (Minn. 2009) (holding that whether a party waives a right is a factual question); *Duluth Herald & News Tribune v. Plymouth Optical Co.*, 286 Minn. 495, 498, 176 N.W.2d 552, 555 (1970) (holding that lack of a transcript precludes review of factual questions). Lea was represented by counsel at the hearing. By stipulating, presumably on the guidance of her legal counsel, to the terms of the September 2010 temporary order,

Lea voluntarily relinquished the rights restricted by the order, including free-speech rights.

Lea also challenges the final order holding her in contempt of the September 2010 order. The argument has merit. The district court's conditional contempt order allowed Lea to purge herself of the contempt finding by removing all online content that "contains any commentary or opinion regarding this pending dissolution action and [Jeremy] or the minor children of these parties." But the September order to which Lea had stipulated did not include such a broad restriction on her right to comment. Although Lea characterizes this as an unconstitutional prior restraint, we need not decide the question on constitutional grounds because the district court's contempt order impermissibly goes beyond the substantive order that it seeks to enforce. To the extent that the district court's contempt order requires Lea to refrain from expressing her opinion about the dissolution action—a restriction that is beyond the scope of the underlying stipulated September 2010 order—we reverse the requirement as beyond the court's discretion.

IV

Lea raises a number of challenges to the district court's issuance of the harassment restraining order (HRO) against her. A victim of repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect on his safety, security, or privacy may obtain an HRO. Minn. Stat. § 609.748, subd. 1(a), subd. 2 (2010). We review a district court's issuance 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 will set aside a district court's findings in support of the order only if they are

clearly erroneous, and we give due regard to the district court's credibility determinations. *Id.* at 843–44.

A. The harassment restraining order is not an unconstitutional prior restraint.

Lea first appears to raise a constitutional challenge to the HRO statute arguing that the order is an invalid prior restraint on her speech. We have previously upheld the constitutionality of the statute. In *Dunham v. Roer*, we noted that the state has an interest in protecting individuals against repeated and substantial intrusions. 708 N.W.2d 552, 565–67 (Minn. App. 2006), *review denied* (Minn. Mar. 28, 2006). We held that the statute does not violate the First Amendment because it is narrowly tailored to ban only unprotected words or conduct. *Id.* at 565. That holding is sufficient to address Lea's limited argument challenging the statute on constitutional grounds.

B. Lea is not entitled to have a jury consider her evidence before the court issues a harassment restraining order.

Lea argues that the district court erred by issuing the HRO without impaneling a jury to consider her evidence. A criminal defendant has a federal and state constitutional right to a jury trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. The constitutional right to a jury trial attaches in criminal proceedings if a defendant faces more than six months' incarceration. *See Lewis v. United States*, 518 U.S. 322, 326, 116 S. Ct. 2163, 2166–67 (1996); *State v. Dumas*, 587 N.W.2d 299, 301 (Minn. App. 1998), *review denied* (Minn. Feb. 24, 1999). The issuance of an HRO is itself not a criminal proceeding, and an individual who is subject to the order cannot become subject to criminal charges unless she violates the order. Minn. Stat. § 609.748, subd. 6 (2012).

Lea also had no right to a civil jury before the district court issued the HRO because the statute does not require a jury, the rules do not require a jury, and the federal and state constitutions do not require a jury. The statute itself does not mention a jury and expressly directs the district court to make the requisite findings. Minn. Stat. § 609.748, subd. 5(a)(3) (2012) (authorizing “the court” to issue a restraining order if “*the court* finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment” (emphasis added)). The Rules of Civil Procedure state that “the issues of fact shall be tried by a jury” specifically “[i]n actions for the recovery of money only, or of specific real or personal property.” Minn. R. Civ. P. 38.01. No money or property is at stake in an order issued under section 609.748, so the rule does not cover the action. The federal Constitution also does not apply; it states that in “[s]uits at common law” involving controversy of more than twenty dollars in value, “the right of trial by jury shall be preserved.” U.S. Const. Am. 7. But the Seventh Amendment refers explicitly to “any Court of the United States,” *id.*, and it has been long held not to be binding on state courts. *Pearson v. Yewdall*, 95 U.S. 294, 296 (1877) (“We have held over and over again that art. 7 of the amendments to the Constitution of the United States relating to trials by jury applies only to the courts of the United States.”); *Genzel v. Halvorson*, 248 Minn. 527, 531, 80 N.W.2d 854, 857–58 (1957) (“[The Seventh Amendment] is not binding upon the states.”).

This leaves only the state constitution. Article I, section 4 of the state constitution provides that “[t]he right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy.” But the article preserves the

civil-jury trial right only “as it existed in the Territory of Minnesota when our constitution was adopted in 1857.” *Abraham v. Cnty. of Hennepin*, 639 N.W.2d 342, 348 (Minn. 2002). This means that “a party is not entitled to a jury trial if that same type of action did not entitle a party to a jury trial at the time the Minnesota Constitution was adopted.” *Olson v. Synergistic Techs. Bus. Sys. Inc.*, 628 N.W.2d 142, 149 (Minn. 2001). HROs of the sort authorized by section 609.748, or its kin, orders for protection (OFP) authorized by section 518B.01, did not become statutory remedies until 1990 and 1979, respectively. 1990 Minn. Laws ch. 461, § 5 at 972–74 (HRO); 1979 Minn. Laws ch. 214, § 1 at 414–17 (OFP). These actions were created long after the state’s 1857 constitution, but that does not end the inquiry because the label of the legal action is not the point of comparison. *Olson*, 628 N.W.2d at 149. The question instead is whether the “nature” and “character” of the controversy is of the same sort as one for which the right to a jury trial existed in 1857. *Id.* at 149–50. That is, we ask whether the action is one that historically sounds in law (jury trial) or in equity (bench trial). *See id.* at 149–153; *Abraham*, 639 N.W.2d at 349 (“A thread runs through our line of decisions . . . that has consistently acknowledged the distinction between actions at law, for which the constitution guarantees a right to jury trial, and actions in equity, for which there is no constitutional right to jury trial.”); *see also United Prairie Bank-Mountain Lake v. Haugen Nutrition & Equip., LLC*, 813 N.W.2d 49, 54 (Minn. 2012) (observing that determining the nature and character of the controversy requires a look at the claim’s substance and the relief sought).

An order restraining harassment, like an order avoiding domestic abuse by restricting contact, is injunctive in nature. We have previously observed that the Minnesota Domestic Abuse Act is sufficiently similar to the statute authorizing HROs so that we could recognize caselaw construing the former as applying to the latter. *Anderson v. Lake*, 536 N.W.2d 909, 911 (Minn. App. 1995). The relief sought in an order for protection, which is granted between family or household members in cases of domestic abuse, is injunctive in nature. *See* Minn. Stat. 518B.01, subd. 6 (2012) (allowing a court to grant relief in various forms, including exclusion from the petitioner’s residence and a reasonable area surrounding the residence and restricting contact with the petitioner). And before the enactment of the HRO statute, but without mentioning the relief available by the order-for-protection statute, we upheld a district court’s grant of injunctive relief enjoining an ex-husband from engaging in harassing conduct against his ex-wife because of the district court’s “inherent power to grant equitable relief in a marriage dissolution proceeding.” *See Sward v. Sward*, 410 N.W.2d 442, 445 (Minn. App. 1987), *review granted* (Minn. Sept. 30, 1987) *and appeal dismissed* (Minn. Dec. 2, 1987). Arising from the common law, our earliest family-law cases sound in equity. *See, e.g., Baier v. Baier*, 91 Minn. 165, 170, 97 N.W. 671, 673 (1903) (holding that a wife living apart from her husband may maintain an equitable action against him for support); *True v. True*, 6 Minn. 458, 467 (1861) (noting that child-custody determinations are within the “special province of a court of equity”). More recently, our supreme court reminded us that “the jurisdiction of the district court in divorce actions is equitable.” *Johnston v. Johnston*, 280 Minn. 81, 86, 158 N.W.2d 249, 254 (1968); *see also DeLa Rosa v. DeLa Rosa*, 309

N.W.2d 755, 757–58 (Minn. 1981) (stating that district courts are guided by equitable principles in determining the rights and liabilities of parties in a dissolution proceeding).

Based on its historically injunctive, equitable nature, we hold that the petition for the HRO, particularly in this case, creates no constitutional right to a civil jury. For all of these reasons, the district court did not abuse its discretion by issuing the HRO without first affording Lea a jury trial.

C. The district court did not abuse its discretion by issuing the harassment restraining order.

A district court may grant an HRO if it finds that reasonable grounds exist to believe that the respondent has engaged in harassment. Minn. Stat. § 609.748, subd. 5(a)(3) (2012). The statute defines “harassment” to include “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). The district court had sufficient evidence to find that Lea had harassed Jeremy. It knew that Lea repeatedly posted false statements on the internet alleging that Jeremy had sexually assaulted the children, engaged in acts of animal cruelty, used and sold controlled substances, embezzled funds or bribed officials, and testified falsely. Lea admitted to authoring and posting the articles on her blog that contained the allegations, as well as posting the blog’s link on her Facebook page (with more than 1000 “friends”) and on her Twitter account (with more than 250 “followers”). Jeremy testified that he received calls at home and at work from individuals inquiring about the allegations, embarrassing, angering, and humiliating him. Based on this, the

district court found that Lea's false statements served "only to harass [Jeremy] and attempt to adversely affect his business, invade his privacy, and create ill will and malice toward him"; they did nothing to inform the public on any matter of public concern. And the district court discredited Lea's claim that she intended only to initiate judicial and legislative reform. The district court acted well within its discretion and on sound evidence when it issued the HRO against Lea.

Lea appears to argue that the HRO is inappropriate because Jeremy has an adequate remedy through a defamation action. Lea is probably correct to the extent she suggests that her conduct may also support a claim by Jeremy in a civil action to redress Lea's previous false statements. But the legislature has provided for the issuance of HROs to prevent future harassment, without excluding harassment that is also defamatory. The paths are not mutually exclusive.

Affirmed in part and reversed in part.