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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-155**

Sandra E. Martinez, petitioner,  
Respondent,

Julio Cesar Solis, petitioner,  
Respondent,

vs.

Patrick Takuanyi,  
Appellant.

**Filed December 1, 2009  
Affirmed  
Lansing, Judge**

Ramsey County District Court  
File Nos. 62-HR-CV-08-661  
62-HR-CV-08-666

Sandra E. Martinez, 186 Westchester Drive, West St. Paul, MN 55118 (respondent)

Julio Cesar Solis, 186 Westchester Drive, West St. Paul, MN 55118 (respondent)

Stan Nathanson, Suite 157, 14700 North Frank Lloyd Wright Boulevard, Scottsdale, AZ  
85260 (for appellant)

Considered and decided by Lansing, Presiding Judge; Stoneburner, Judge; and  
Johnson, Judge.

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

**LANSING**, Judge

Following an evidentiary hearing, the district court issued a harassment restraining order prohibiting Patrick Takuanyi from coming within a one-block radius of Sandra Martinez and Julio Solis's residence or place of business. In this appeal, Takuanyi challenges the exclusion of a police report from evidence, the sufficiency of the evidence to support the restraining order, and the scope of the order's restrictions. Because we conclude that the district court did not abuse its discretion by excluding the report, the evidence supports the order, and the order is not overly restrictive, we affirm.

### **F A C T S**

The harassment restraining order at issue in this appeal grew out of a business relationship between Patrick Takuanyi and Sandra Martinez and Julio Solis. Martinez opened a car sales and repair business and entered into a joint contract with a business partner to purchase the property on which the business is located. The business partner executed a document transferring his joint interest in the business and the property to Takuanyi. Solis managed the day-to-day operations of the business, but, in January 2008, Takuanyi began spending time at the shop. Martinez and Solis testified that in the spring of 2008, Takuanyi began to threaten them at the shop when they had disagreements over business issues. Martinez and Solis filed a petition for a harassment restraining order in October 2008.

The district court held a hearing on the petition. Martinez, Solis, Takuanyi, and a witness for Martinez and Solis testified. Martinez, Solis, and their witness, a client of the

business, testified to Takuanyi's persistent threats and acts of violence and aggression. These acts included bringing his face close to Martinez's face and yelling at her that he wanted to hit her and threatening to hit her; threatening to have Solis arrested and removed from the country; intentionally damaging a car on the property in anger; repeatedly approaching Martinez and Solis, yelling at them, and then calling the police to intervene.

Based on the testimony, the district court found reasonable grounds to believe that Takuanyi had harassed Martinez and Solis and issued a harassment-restraining order. Takuanyi appeals the district court's order.

## **D E C I S I O N**

The three grounds raised in the appeal are, first, that the district court erred in its evidentiary ruling that excluded a police report; second, that the evidence is insufficient to support the harassment restraining order; and, third, that the scope of the order, which prohibits Takuanyi from being at the shop of the business that he believes he owns jointly with Martinez, is overly restrictive.

### **I**

During the evidentiary hearing, Takuanyi offered into evidence a police report that related to one of the incidents cited in Martinez and Solis's petition. The district court ruled that the report was inadmissible hearsay. The record indicates that Takuanyi sought to admit the police report to prove his statement to the police that Solis had threatened to kill him.

We review evidentiary rulings under an abuse-of-discretion standard. *State v. Vance*, 254 N.W.2d 353, 358 (Minn. 1977). To establish reversible error, the appellant must demonstrate not only that the district court abused its discretion, but also that it resulted in prejudice. *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003). Hearsay is an out-of-court statement offered for the truth of the matter asserted. Minn. R. Evid. 801(a), (c). Unless the hearsay comes within an exception to the general rule of inadmissibility, it must be excluded. Minn. R. Evid. 802. Takuanyi argues that the police report was admissible under the public-records exception. *See* Minn. R. Evid. 803(8).

The district court did not abuse its discretion in excluding the report as inadmissible hearsay. Takuanyi was unable to authenticate the report, which is a prerequisite to the admission of a public record. *See* Minn. R. Evid. 901(b)(7) (discussing authentication of public records). In addition, Takuanyi's statement in the police report constitutes hearsay within hearsay, requiring an additional exception. *See* Minn. R. Evid. 805 (discussing conditions for admitting hearsay within hearsay). Finally, Takuanyi was not prejudiced. The content of the police report essentially restated the testimony of Takuanyi and Solis at the hearing. Consequently, the admission of the police report did not likely influence the outcome of the hearing. *See State v. Ferguson*, 729 N.W.2d 604, 615 (Minn. App. 2007) (stating standard for prejudice), *review denied* (Minn. June 19, 2007).

## II

We review the issuance of a harassment restraining order for abuse of discretion. *Witchell v. Witchell*, 606 N.W.2d 730, 731 (Minn. App. 2000). The district court may grant a restraining order if “the court finds at the hearing that there are reasonable grounds to believe that [a person] has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(a)(3) (2008). “Harassment” is defined 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) (2008). 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).

Takuanyi argues that the record does not show that he intended to harass Solis and Martinez and that Solis and Martinez were not credible. Minnesota law does not require proof of intent to harass for a court to issue a harassment restraining order. Minn. Stat. § 609.748, subd. 1(a)(1). Conduct that is objectively unreasonable, even if not intended to harass, combined with an objectively reasonable belief by a petitioner that the conduct adversely affects his or her security, safety, or privacy is sufficient under the statute. *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006). The district court questioned Martinez and Solis about the incidents alleged in their petition and asked Takuanyi to respond to the allegations. Martinez and Solis also presented witness testimony that corroborated their version of Takuanyi’s conduct. The testimony from both sides

presented a question of credibility that the district court resolved in favor of Martinez and Solis. We defer to the district court's credibility assessment. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Based on the record, the district court did not abuse its discretion in concluding that there were reasonable grounds to believe that Takuanyi had harassed Martinez and Solis.

### III

Finally, Takuanyi challenges the scope of the restraining order, arguing that preventing him from going to the shop is improper in light of his ownership interest in the business. Takuanyi presented this argument to the district court at the hearing and again in a motion for reconsideration. The district court noted that ownership was disputed by the parties and stated that the documents presented by Takuanyi did not prove his interests or rights in the business or the property. Furthermore, an individual can legally be restrained from property, despite an ownership interest. *See* Minn. Stat. § 518B.01, subd. 6(a)(2) (2008) (stating that order for protection can exclude abusing party from shared dwelling); *Anderson v. Lake*, 536 N.W.2d 909, 911 (Minn. App. 1995) (stating Minnesota's harassment-restraining-order statute and order-for-protection statute "are sufficiently similar so that we may recognize caselaw construing the former as applicable to the latter"). Thus, conclusive proof of Takuanyi's rights in the business would not preclude the court from issuing an order restricting Takuanyi from his place of business.

We recognize that if Takuanyi had proved his ownership, the district court may have been able to make a more specific ruling that weighed the competing rights and would avoid restraining Takuanyi more severely than necessary, while adequately

protecting Martinez and Solis. But in light of the evidence in the record, the district court did not abuse its discretion in restraining Takuanyi from the location where he had repeatedly harassed Martinez and Solis.

**Affirmed.**