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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-24**

In re the Matter of:
Judy Santana, petitioner,
Respondent,

vs.

Ruben Elias Rodriguez,
Appellant.

**Filed August 22, 2011
Affirmed
Halbrooks, Judge**

Hennepin County District Court
File No. 27-FA-10-9244

Judy Santana, Eden Prairie, Minnesota (pro se respondent)

Ruben Rodriguez, Brooklyn Center, Minnesota (pro se appellant)

Considered and decided by Schellhas, Presiding Judge; Peterson, Judge; and
Halbrooks, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant, pro se, challenges the district court's grant of an order for protection to
respondent. Because we conclude that the district court's factual findings are supported

by the record and that the findings are sufficient to support the issuance of the order, we affirm.

FACTS

On December 9, 2010, respondent Judy Santana petitioned the district court for an order for protection (OFP) against appellant Ruben Elias Rodriguez. The petition alleged that Rodriguez physically harmed Santana in November 2010 and that Rodriguez repeatedly called Santana, threatening her, and that he followed her.

The district court held a hearing on December 16, 2010. Rodriguez denied the allegations contained in Santana's petition, and the district court heard testimony from both parties. Santana testified that in November Rodriguez followed her to a friend's house and that he grabbed her arm, pushed her, and kept asking her questions about her new relationship. She also stated that Rodriguez had been following her to her new boyfriend's house and harassing her at work. Santana testified that, in the past, Rodriguez had physically assaulted her by punching and kicking her. After the assault, Santana left the house but did not file a police report. Santana testified that she is very afraid of Rodriguez.

Rodriguez testified that Santana fabricated the November event and filed the OFP petition as retaliation for his efforts to gain custody of their daughter.

The district court granted Santana's petition. The district court found that Santana credibly testified that Rodriguez

followed her to her current boyfriend's home, approached her car, attempting to open the door to her car. She testified that she was in fear based upon his past conduct where he has

caused her physical harm. [Santana] further testified that [Rodriguez] recently approached her in November and demanded information about her current relationship and that an argument ensued where he grabbed her by the arms and pushed her, causing her fear.

The district court also found that Rodriguez “was very cavalier and appeared to not take any of this seriously.” The district court noted that Rodriguez acknowledged that he looked up Santana’s boyfriend’s contact information on the Internet and went to his home to see if Santana showed up. Based on these facts, the district court concluded that Santana met her burden and therefore granted an OFP against Rodriguez for a period of two years. This appeal follows.

D E C I S I O N

Rodriguez challenges the district court’s decision to grant an OFP, arguing that its findings are insufficient to support it. “The decision to grant an OFP under the Minnesota Domestic Abuse Act, Minn. Stat. § 518B.01 . . . is within the district court’s discretion. A district court abuses its discretion if its findings are unsupported by the record or if it misapplies the law.” *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 98 (Minn. App. 2009) (quotations and citation omitted). We review the record in a light most favorable to the district court’s findings. *Id.* at 99. This court will not reconcile conflicting evidence or decide issues of witness credibility, as those issues are “exclusively the province of the factfinder.” *Id.* (quotation omitted).

A petitioner seeking an OFP must allege and prove domestic abuse. Minn. Stat. § 518B.01, subd. 4(b) (2010). “Domestic abuse” is defined as (1) “physical harm, bodily injury, or assault,” (2) “the infliction of fear of imminent physical harm, bodily

injury, or assault,” or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call, “if committed against a family or household member by a family or household member.” Minn. Stat. § 518B.01, subd. 2(a) (2010). An order for protection may be issued if an individual “manifests a present intention to inflict fear of imminent physical harm, bodily injury or assault,” *Boniek v. Boniek*, 443 N.W.2d 196, 198 (Minn. App. 1989), which the district court may infer from the totality of the circumstances, *Pechovnik*, 765 N.W.2d at 99.

The district court granted the OFP based on its findings that Rodriguez followed Santana home, engaged Santana in arguments about her current relationship, and in November 2010, grabbed Santana and pushed her, causing her fear. These findings are supported by Santana’s testimony, which the district court found to be credible.

Rodriguez’s primary contention is that Santana’s version of the events is untrue. Rodriguez presented his version of the facts to the district court, including his theory that Santana’s OFP petition was an effort to retaliate against him for trying to get custody of the parties’ child. Rodriguez now asks this court to reconsider his testimony and reweigh the credibility of the parties. But it is well established that “the district court is in the best position to judge the credibility of the witnesses and make determinations in the face of conflicting testimony and must be given due deference.” *Braith v. Fischer*, 632 N.W.2d 716, 724 (Minn. App. 2001) (citing *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988)), *review denied* (Minn. Oct. 24, 2001); *see also Pechovnik*, 765 N.W.2d at 99. The district court made an express credibility determination and found that Santana’s allegations of abuse were credible. This court is not at liberty to reweigh those findings.

Because the district court's factual findings are supported by the record and because those findings are sufficient to support the issuance of an OFP, we affirm.

Affirmed.