COURT OF APPEALS
DECISION
DATED AND FILED

April 26, 2001

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

NOTICE

No. 00-0840

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

MATHEW E. LEVIN,

PETITIONER-RESPONDENT,

V.

SHAWN M. RADTKE,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Dodge County: JOHN R. STORCK, Judge. *Affirmed.*

Before Dykman, P.J., Roggensack, and Mason, JJ.[1]

[1] Circuit Judge James M. Mason is sitting by special assignment pursuant to the Judicial Exchange Program.

¶1 PER CURIAM. Shawn Radtke appeals an order granting Mathew Levin a harassment injunction against her. The issues are whether the court stated sufficient reasons for its decision, whether the injunction is overbroad, and whether the court erred in denying her postjudgment motion. We affirm.

¶2 Levin's petition alleged that Radtke had been "stalking and harassing" him, and it described certain specific instances. The court held an evidentiary hearing. At the end of that hearing, the court concluded that there were reasonable grounds to conclude that Radtke had committed harassment, as described in WIS. STAT. § 947.013(1m)(b) (1999-2000).[2] The court issued an injunction prohibiting Radtke from having any contact with Levin.

¶3 Radtke first argues that, in stating its decision, the trial court failed to sufficiently demonstrate that it used a rational process to conclude that she committed harassment. We disagree. The court noted the testimony that Radtke had attempted to continue a relationship with Levin which had previously ended and that her contacts were not for the purpose of collecting her personal property or settling financial issues. The court also noted numerous police contacts that Levin had made regarding Radtke's conduct. The court's discussion was sufficient to demonstrate a rational process.

¶4 Radtke argues that there was insufficient evidence to support the conclusion that she committed harassment. We affirm the trial court's findings of fact unless they are clearly erroneous, and we defer to the trial court's judgment about the credibility of witnesses. WIS. STAT. § 805.17(2); ***Village of Big Bend v.***

[2] All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

Anderson, 103 Wis. 2d 403, 410, 308 N.W.2d 887 (Ct. App. 1981). Radtke does not argue that the evidence is insufficient as to any particular element. Instead, she argues that the trial court failed to cite specific examples of harassment, as she claims is required by ***State v. Sarlund***, 139 Wis. 2d 386, 394-95, 407 N.W.2d 544 (1987). Radtke misreads ***Sarlund***. The passage she relies on does not require the *court* to cite specific examples; instead, it requires the petitioner or prosecutor to provide specific examples rather than a general allegation of harassment or intimidation. In this case, Levin offered several specific examples.

¶5 Radtke argues that the injunction is overbroad because it prohibits her from having any contact with Levin, including by telephone, in writing, or through a third person other than an attorney. Her argument is based on ***Bachowski v. Salamone***, 139 Wis. 2d 397, 407 N.W.2d 533 (1987). In that case, the injunction prohibited the respondent from harassing the petitioner or "having any contact with petitioner." ***Id.*** at 414. The supreme court said that a harassment injunction may enjoin only acts or conduct which are substantially similar to those which are proven at trial and form the basis of the harassment finding. ***Id.*** The court held that the injunction in that case was too broad because it enjoined contact "which simply would not constitute harassment under the statute, e.g., saying good morning to [the petitioner] or his family." ***Id.***

¶6 When Radtke made this argument to the trial court, the court noted that Radtke's harassment had been in the form of personal contacts, telephone calls, and entry of Levin's premises. The court concluded that it was therefore appropriate to ban further contact by these methods in the future. Considering the invasive nature of Radtke's contacts, we conclude the trial court was within its discretion in ordering no contact by Radtke.

¶7 Radtke's final argument is that the trial court erroneously denied her post-judgment motion brought under WIS. STAT. § 806.07(1)(c), on the ground of fraud or misrepresentation by Levin. The motion alleged that Levin had given the court perjured testimony, and the motion included two affidavits offering evidence intended to support that claim. The court denied the motion by a written order in which it appeared to conclude that, even if Levin's testimony as to those specific points were incorrect, there was still sufficient evidence to support the injunction. On appeal, Radtke does not discuss any standards or case law related to § 806.07(1)(c). She simply argues that Levin's testimony was false and therefore the injunction should not have been issued. However, Radtke's brief has not convinced us that the trial court's determination about the credibility of witnesses should be subject to our review.

By the Court.—Order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5.