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**DISTRICT IV**

April 15, 2016

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Petitioner

You are hereby notified that the Court has entered the following opinion and order:

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2015AP1490	Petitioner v. Ali Burhani (L.C. # 2015CV1599)
2015AP1491	Petitioner v. Ali Burhani (L.C. # 2015CV1601)

Before Kloppenburg, P.J., Lundsten and Sherman, JJ.

In these consolidated matters, Ali Burhani appeals two harassment injunctions entered in favor of his ex-girlfriend and her minor child. As grounds for the injunctions, the circuit court determined that Burhani engaged in a course of conduct that constituted stalking in violation of WIS. STAT. § 940.32 (2013-14).<sup>1</sup> See WIS. STAT. § 813.125(1)(a). Burhani argues that the circuit

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

court erroneously exercised its discretion by failing to make on-the-record findings as to each element of the crime of stalking and that the evidence was insufficient to support each requisite element. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We affirm.

In seeking an injunction to enjoin Burhani from harassing or contacting her and her children, Burhani's ex-girlfriend alleged that in October and November 2014, after she ended their relationship and explicitly told Burhani she did not want any further contact, he continuously contacted her through a variety of means and was criminally charged with stalking. She sought injunctive relief because Burhani's criminal case was recently dismissed, terminating the associated no-contact orders. After a hearing pursuant to WIS. STAT. § 813.125(4), the circuit court granted the injunctions as to the ex-girlfriend and her minor child.<sup>2</sup> Burhani appeals.

Under WIS. STAT. § 813.125(4)(a), a circuit court may grant an injunction ordering the respondent to cease or avoid harassing or contacting the petitioner if it finds "reasonable grounds to believe that the respondent has engaged in harassment with intent to harass or intimidate the petitioner." WIS. STAT. § 813.125(4)(a)3. Harassment includes "stalking under s. 940.32; or attempting or threatening to do the same." WIS. STAT. § 813.125(1)(a). Whether or not to grant an injunction is a discretionary determination for the circuit court. *Welytok v. Ziolkowski*, 2008 WI App 67, ¶23, 312 Wis. 2d 435, 752 N.W.2d 359. In reviewing the circuit court's decision for an erroneous exercise of discretion, "[w]e look for reasons to sustain [its] discretionary ruling." *Board of Regents-UW Sys. v. Decker*, 2014 WI 68, ¶19, 355 Wis. 2d 800, 850 N.W.2d 112. *See*

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<sup>2</sup> On Burhani's motion, the circuit court dismissed the petition as to a second minor child.

also *State v. Nantelle*, 2000 WI App 110, ¶12, 235 Wis. 2d 91, 612 N.W.2d 356 (we will independently search the record for reasons supporting the circuit court’s exercise of discretion).

As applied to this case, the elements of stalking are: (1) Burhani intentionally engaged in a course of conduct directed at the petitioners; (2) Burhani’s course of conduct would have caused a reasonable person to suffer serious emotional distress; (3) Burhani’s acts caused the petitioners to suffer serious emotional distress; and (4) Burhani knew or should have known at least one of the acts constituting the course of conduct would cause the petitioners serious emotional distress. *See* WIS. STAT. § 940.32(2); WIS JI—CRIMINAL 1284.

Burhani contends that the injunctions should be reversed because the circuit court was required to but did not meaningfully address elements two (the reasonable person standard) and four (Burhani’s knowledge) on the record. We disagree. First, Burhani made these same arguments at the injunction hearing. The circuit court was thus aware of the requisite elements of the crime of stalking and we presume it correctly applied the law. *See Arave v. Creech*, 507 U.S. 463, 471 (1993). Second, Burhani offers no support for his contention that express findings are required. To the contrary, absent an express factual finding, we may assume the circuit court made findings in a manner that supports its final decision. *State v. Echols*, 175 Wis. 2d 653, 673, 499 N.W.2d 631 (1993); *Sohns v. Jensen*, 11 Wis. 2d 449, 453, 105 N.W.2d 818 (1960).

Burhani also argues that the evidence was insufficient to support a finding that his conduct satisfied the elements of the crime of stalking. Where there is conflicting testimony, we defer to the circuit court’s credibility determinations and will affirm its factual findings unless they are clearly erroneous. *Welytok*, 312 Wis. 2d 435, ¶28. If more than one reasonable

inference can be drawn from the credible evidence, we must accept the reasonable inference drawn by the circuit court. *Id.*, ¶27.

Having reviewed the record, we conclude that as to the ex-girlfriend, the evidence sufficiently supports the circuit court's implicit findings that Burhani's course of conduct would have caused a reasonable person to suffer serious emotional distress and that he knew or should have known his conduct would cause such distress.

On October 8, 2014, the ex-girlfriend informed Burhani she wanted no further contact with him. She stated the neighbors were threatening to call social services and have her children removed due to Burhani's behavior and that she needed to "block" Burhani from her life because she had too much to lose. She specifically told Burhani not to come to her house because the neighbors would call the police. Burhani continued to text her and went to her neighbor's house. That evening, she left work to find Burhani waiting by her parking spot. He followed her as she drove and for safety reasons, she pulled into a parking lot, explaining that Burhani had followed her home from work in August and "was banging on my car windows trying to get in and the neighbors did call the cops." Two days later, Burhani showed up at her place of work with a ring, poetry, and flowers. He learned she was out of the office at a meeting in DeForest. After her boss called to apprise her of the situation, she sent multiple texts to Burhani telling him to leave her alone or she would file a restraining order and contact the police. Burhani continued to send texts indicating he had traveled to DeForest and wanted to meet with her. She informed Burhani she had contacted the police and notified her place of work not to let Burhani in the building. She forwarded to Burhani a text she sent to his father asking that he tell his son to leave her alone and stating if Burhani continued contacting her, she would call the police.

On October 10, 2014, a detective instructed Burhani to leave the ex-girlfriend alone. Despite these facts, on October 24, 2014, Burhani managed to secure a substitute teaching assignment at the minor child's school. He called the ex-girlfriend from a school phone and she answered but hung up after hearing his voice. Burhani called again and left a message stating he had papers and flowers for her and asking that she not call the police. Given Burhani's escalating behavior even after police intervention, the evidence supports a finding that the ex-girlfriend's serious emotional distress was reasonable.

Similarly, the record amply supports a finding that Burhani knew or should have known that at least one of his acts would cause his ex-girlfriend to suffer serious emotional distress. The incident at the child's school was in and of itself so invasive that Burhani must or should have known it would cause his ex-girlfriend serious emotional distress. In addition, the ex-girlfriend told Burhani she feared losing her children and warned she would obtain a restraining order or seek police intervention if he continued to attempt contact. That she ultimately sought assistance from law enforcement and notified her workplace about the situation alerted Burhani to her level of emotional distress. Burhani's requests that she not call the police in response to his unwanted contact further demonstrate he was aware of his actions' emotional consequences.

The evidence also supports the circuit court's decision to grant the minor child's injunction. Prior to October 24, 2014, Burhani had never before worked at the child's school and admitted he hoped to be placed there. He was assigned to help a particular child with special educational needs throughout the day. Prior to the start of school, Burhani approached the ex-girlfriend's child in his classroom to ask if he would deliver papers and flowers to his mother. When the child declined, Burhani took the opportunity to call his ex-girlfriend from the school's phone. Burhani returned to the child's classroom where he stood next to and talked to the child

as the child took a computer exam. The child's mother stated at the hearing that Burhani questioned the child about why the child's mother was refusing any interaction. Later, after there was a no-contact order in place, Burhani contacted the mother's friend, discussed his relationship with the child's mother, and said he considered the child to be his son. We agree with the circuit court that these acts constituted a course of conduct under WIS. STAT. § 940.32(1)(a), with the continued purpose of using the child as a conduit to reunite with the ex-girlfriend.

Further, the record supports the circuit court's implicit findings that the child suffered serious emotional distress and that the child's distress was reasonable. The child's mother stated in court that Burhani's course of conduct caused the child serious emotional distress. After his mother contacted the police and asked Burhani to stay away, Burhani appeared out of the blue for the first time at the child's school. Rather than keep his distance, Burhani asked the child to deliver papers and flowers to the child's mother, and then stationed himself next to the child during a computerized test. These facts also support a finding that Burhani knew or should have known that one or more of his acts would cause the child serious emotional distress. Burhani agreed it was inappropriate for a substitute teacher to talk to a child about family relationships. Additionally, based on texts he received from his ex-girlfriend two weeks prior, Burhani was aware that his previous interactions with the child were viewed as harmful since multiple neighbors had threatened to call social services and have the children removed due to Burhani's actions.

Upon the foregoing reasons,

IT IS ORDERED that the orders of the circuit court are summarily affirmed pursuant to  
WIS. STAT. RULE 809.21.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*