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May 22, 2019

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

2018AP1652-FT Petitioner v. Michael A. Metz (L.C. #2018CV90)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Michael Metz appeals from a circuit court order granting a four-year harassment injunction against him as a result of his conduct toward the petitioner. 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 (2017-18).¹ We affirm the injunction as a proper exercise of circuit court discretion.

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

We review a circuit court's decision to grant and establish the scope of a WIS. STAT. § 813.125 harassment injunction for an erroneous exercise of discretion. *Board of Regents-UW Sys. v. Decker*, 2014 WI 68, ¶19, 355 Wis. 2d 800, 850 N.W.2d 112. Before granting an injunction under § 813.125, the circuit court must find "reasonable grounds to believe that the respondent has engaged in harassment with intent to harass or intimidate the petitioner." *Board of Regents*, 355 Wis. 2d 800, ¶20 (citing § 813.125(4)(a)3.). We will affirm the circuit court's factual findings unless they are clearly erroneous. *Board of Regents*, 355 Wis. 2d 800, ¶20. Whether reasonable grounds exist to grant the injunction presents a question of law that we review de novo. *Id.*

After an evidentiary hearing at which the Petitioner and Metz testified, the circuit court made the following findings of fact. Metz engaged in a course of conduct or repeatedly committed acts which harassed or intimidated the Petitioner and served no legitimate purpose. That conduct included bullying as evidenced by Metz taking the Petitioner's telephone from her and retaining it until she provided him with access to it so he could view her private communications; using social media to harass the Petitioner and place the parties' difficulties in the public sphere; repeatedly texting and messaging the Petitioner to the point of harassment and without a legitimate purpose; and taking actions in an attempt to control the Petitioner, including canceling credit cards used by the Petitioner.² The court imposed a four-year harassment injunction and barred Metz from harassing or intimidating the Petitioner, "posting of any kind on

² The Petitioner also testified that Metz contacted an organization in which she participated to "enlighten" the organization about the Petitioner, damaged her computer, shut off phones belonging to the Petitioner and others, and launched a public campaign against the Petitioner to impair her relationships with others. The Petitioner also denied telling anyone that Metz had physically abused her.

social media,” and being near the Petitioner’s residence or any place temporarily occupied by the Petitioner. Metz appeals.

On appeal, Metz argues that he lacked the intent to harass or intimidate the Petitioner, the injunction is vague and overbroad, particularly in its ban on social media posting, and the four-year injunction term is excessive.³

Harassment is defined as “[e]ngaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.” WIS. STAT. § 813.125(1)(am)2. “[C]onduct or repetitive acts that are intended to harass or intimidate do not serve a legitimate purpose.” *Bachowski v. Salamone*, 139 Wis. 2d. 397, 408, 407 N.W.2d 533 (1987). Intent to harass “must be inferred from the acts and statements of the person, in view of the surrounding circumstances.” *Welytok v. Ziolkowski*, 2008 WI App 67, ¶26, 312 Wis. 2d 435, 752 N.W.2d 359 (citation omitted).

Metz does not contend that the circuit court’s findings of fact about his conduct are clearly erroneous. Rather, he appears to argue that the circuit court should have understood his conduct in the context of a breakdown in his relationship with the Petitioner such that his conduct was understandable rather than harassing or intimidating. Metz also argues that his attempts to determine the details of the Petitioner’s conduct and contacts with others served a legitimate purpose in the context of the relationship. However, Metz does not point us to any law suggesting that there is a relationship “safe harbor” or exception to the application of WIS.

³ Metz also argues that the bar on posting on social media violates his First Amendment rights. This argument is undeveloped, and we do not address it. *Clean Wis. v. PSC*, 2005 WI 93, ¶180 n.40, 282 Wis. 2d 250, 700 N.W.2d 768 (“We will not address undeveloped arguments.”).

STAT. § 813.125. Therefore, we consider this contention no further. *See Post v. Schwall*, 157 Wis. 2d 652, 657, 460 N.W.2d 794 (Ct. App. 1990) (arguments unsupported by legal authority are not considered).

The weight and credibility of the evidence was for the circuit court to determine. *See State v. Peppertree Resort Villas, Inc.*, 2002 WI App 207, ¶19, 257 Wis. 2d 421, 651 N.W.2d 345. The court correctly considered the totality of Metz's conduct toward the Petitioner and drew appropriate inferences about his intent from that conduct. *See Welytok*, 312 Wis. 2d 435, ¶26. The court's findings, which are supported in the record and not clearly erroneous, show a course of conduct or repeated acts by Metz intended to harass or intimidate the Petitioner and that served no legitimate purpose. *See Bachowski*, 139 Wis. 2d at 408. With regard to the ban on social media posting, the evidence before the court established that Metz was using social media posts to harass the Petitioner and there was no reasonable inference that Metz's posts were about someone else or some other situation. Metz's posts served no legitimate purpose and were properly enjoined.

The duration of the injunction was within the circuit court's discretion, and Metz cites no authority for the proposition that the court could not select a four-year term. By its terms, WIS. STAT. § 813.125(4)(c) permits an injunction of four years' duration.

The circuit court had reasonable grounds to grant an injunction against Metz and properly exercised its discretion in enjoining Metz from harassing the Petitioner for four years. *See Board of Regents*, 355 Wis. 2d 800, ¶¶19-20.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals