

SUPREME COURT OF NORTH DAKOTA

Skadberg v. Skadberg

644 N.W.2d 873 (N.D. 2002) · No. No. 20010261 · Decided June 4, 2002

SUMMARY

The Supreme Court of North Dakota affirmed a disorderly conduct restraining order issued against Todd Skadberg based on repeated harassing and hang-up telephone calls to his ex-wife. The court held that reasonable grounds supported the order and that the district court conducted a full hearing by considering affidavits and permitting cross-examination. The court also concluded that the order did not unreasonably restrict Todd's visitation with his daughter.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Kapsner, Justice; Gerald W. Vande Walle, C.J.; Mary Muehlen Maring, Justice; William A. Neumann, Justice; Dale V. Sandstrom, Justice
JURISDICTION	North Dakota
DECIDED	June 4, 2002
DOCKET	No. 20010261
DISPOSITION	affirmed
PROCEDURAL POSTURE	Todd Skadberg appealed the district court's issuance of a one-year disorderly conduct restraining order that prohibited contact with his ex-wife and specified the location for visitation exchanges with their daughter.
STANDARD OF REVIEW	The court deferred to the district court's credibility determinations and weighing of evidence because the trial court was in a better position to assess witness demeanor.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Todd Skadberg v. Sonja Skadberg

TOPICS

- family law procedure
- domestic violence
- visitation
- appellate procedure
- due process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether reasonable grounds supported issuance of the disorderly conduct restraining order.
2. Whether the district court provided the full hearing required by N.D.C.C. § 12.1-31.2-01 when it considered affidavits and allowed cross-examination but Todd did not testify.
3. Whether the restraining order unreasonably restricted Todd's visitation and access to his daughter.

HOLDINGS

1. Reasonable grounds existed to issue the restraining order because the evidence of repeated, late-night and hang-up telephone calls, together with their harassing and intimidating character, was sufficient for a person of reasonable caution to believe that disorderly conduct had occurred.
2. The district court conducted the full hearing required by N.D.C.C. § 12.1-31.2-01 by considering both parties' affidavits and allowing Todd to cross-examine Sonja, even though Todd did not testify himself.
3. The restraining order did not unreasonably restrict Todd's visitation or access to his daughter because it did not alter the visitation provisions of the divorce judgment and only specified where visitation exchanges would occur.

KEY QUOTATIONS

“By accepting affidavits and allowing cross-examination, the district court conducted a full hearing on the disorderly conduct restraining order petition.” (876)

“Rather than restricting contact with his daughter, the disorderly conduct restraining order only directs where exchanges are to take place for purposes of visitation.” (877)

FACTUAL BACKGROUND

Sonja alleged that Todd made frequent harassing and obscene telephone calls, including late-night hang-up calls, and threatened one of her friends. She testified that the calls occurred approximately every three days, sometimes between 10:00 p.m. and 2:00 a.m., and adversely affected the parties' three-year-old daughter. The district court credited Sonja's account, issued a disorderly conduct restraining order for one year, lifted the no-contact restriction as to the daughter, and directed where visitation exchanges would occur.

PROCEDURAL HISTORY

Sonja Skadberg petitioned for a disorderly conduct restraining order on September 28, 2001, and the district court issued a temporary order the same day. After an October 8, 2001 hearing at which the court considered affidavits and permitted Todd to cross-examine Sonja, the court issued the one-year restraining order but lifted the no-contact provision as to Todd's daughter. Todd appealed, challenging the sufficiency of the evidence, the adequacy of the hearing, and the effect of the order on visitation.

DISPOSITION

affirmed

CASES CITED

- Tibor v. Lund, 1999 ND 176, 599 N.W.2d 301
- Svedberg v. Stamness, 525 N.W.2d 678 (N.D. 1994)
- Wishnatsky v. Huey, 1997 ND 35, 560 N.W.2d 878
- Cave v. Wetzel, 545 N.W.2d 149 (N.D. 1996)
- Sandbeck v. Rockwell, 524 N.W.2d 846 (N.D. 1994)
- Tibor v. Tibor, 2001 ND 43, 623 N.W.2d 12
- Hendrickson v. Hendrickson, 2000 ND 1, 603 N.W.2d 896
- State ex rel. D.D. v. G.K., 2000 ND 101, 611 N.W.2d 179