COURT OF APPEALS
DECISION
DATED AND FILED

November 3, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2024AP901-CR **Cir. Ct. No. 2021CF302**

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

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

STETSON OKEEFE GRANT,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Oneida County: MICHAEL H. BLOOM, Judge. *Affirmed*.

Before Stark, P.J., Hruz, and Gill, JJ.

¶1 HRUZ, J. Stetson OKeefe Grant appeals a judgment convicting him of stalking his ex-wife.[1] On appeal, Grant argues that the standard jury instruction

[1] Grant was convicted of stalking and disorderly conduct. He appeals only the stalking conviction.

for stalking that was provided in this case was incomplete given the facts adduced at trial.

¶2 Stalking, as defined by WIS. STAT. § 940.32(1)(d) and (2) (2023-24),[2] requires, among other things, that a defendant's conduct cause the victim to suffer "serious emotional distress," which means that the defendant's conduct caused the victim to feel "terrified, intimidated, threatened, harassed, or tormented." Grant argues that his conduct toward his ex-wife was not harassing as a matter of law. He directs us to one of the definitions of harassment listed in WIS. STAT. § 813.125, the civil harassment restraining order statute, which defines "harassment" as engaging in behavior that is not only harassing or intimidating, but also which "serve[s] no legitimate purpose." *See* § 813.125(1)(am)4.b.

¶3 Grant contends that this particular definition of harassment should have been given to the jury because it applied to the facts of his case. Specifically, Grant argues that his conduct, while admittedly harassing in layperson's terms, served the purportedly legitimate purpose of attempting to convince his then-wife to reconcile their marriage. Therefore, Grant argues that his conduct was not harassing under WIS. STAT. § 813.125(1)(am)4.b. and, consequently, was not conduct that could cause the serious emotional distress required for a stalking conviction. According to Grant, because the jury did not know that it had the option of acquitting him as long as his harassing behavior had a purportedly legitimate purpose, it improperly had no choice but to convict him.

[2] All references to the Wisconsin Statutes are to the 2023-24 version.

¶4 We conclude that the jury instructions were not incomplete because WISCONSIN JI—CRIMINAL 1284 accurately and completely states the law regarding stalking, and the circuit court did not err by using it to instruct the jury. The term "harassment" as used in the stalking statute does not require proof that the conduct at issue served no legitimate purpose, and the definition Grant contends was required to be used is confusing and misstates the law. Therefore, we affirm Grant's judgment of conviction.

BACKGROUND

¶5 Grant was charged with a number of crimes, including stalking and disorderly conduct, both as acts of domestic abuse. The charges stemmed from his conduct toward his estranged wife, Angie,[3] following her announcement that she wanted to file for divorce.

¶6 According to the criminal complaint, in the months following Angie's announcement, Grant called Angie 50 to 150 times per day, texted her frequently, and showed up at Angie's residence daily attempting to reconcile, all of which caused Angie to suffer emotional distress. The complaint referenced a number of audio recordings Angie made of Grant's conduct, including instances in which he threatened to kill himself and/or the entire family; came to Angie's residence while on duty as a sergeant for the Oneida County Sheriff's Department and refused to leave; and, when threatened by Angie with police intervention, would say things to the effect of "I am the … cops" or "I am the law." During these instances, Grant would often stand in the residence doorway to prevent

[3] Because this case involves the victim of a crime, we use a pseudonym pursuant to the policy underlying WIS. STAT. RULE 809.86(4).

Angie from leaving. He also punched holes in the wall of the home when he was upset.

¶7 The case proceeded to a jury trial. At trial, Angie testified that Grant's harassment campaign began sometime after Christmas 2018, which was when she first told Grant she wanted a divorce. The couple owned property that included a main house, guest house, and a dog kennel business, and Grant moved into the guest house, while Angie and their toddler son stayed in the main house. Shortly thereafter, Grant began calling and/or texting Angie incessantly and coming to the main house uninvited with the stated intention of reconciling with her. Angie testified that Grant's conduct followed a pattern: Grant would come over to her house crying and then refuse to leave until Angie changed her mind about the divorce. When that approach proved ineffective, Grant would threaten to kill himself and/or threaten to turn their son against her. These episodes would last about one hour, with Angie often locking herself in her bathroom until Grant would leave.

¶8 Angie further testified that, on numerous occasions, Grant would harass her while he was on duty as a sergeant with the county sheriff's department. Grant would come to her house during his shift wearing his uniform and sidearm; refuse to leave; and, when Angie would threaten to contact law enforcement, he would laugh at her and say he *was* law enforcement and that the police were his friends.

¶9 Angie testified that Grant's conduct continued through April 2019, when she filed for divorce, and it only changed for the better after the divorce was finalized in August 2020. During the months of continued harassment, Angie surreptitiously recorded 53 interactions with Grant, and 50 of these recordings

were played for the jury. One recording, from April 21, 2019, lasted approximately 30 minutes and documented an interaction during which Grant was on duty while harassing Angie. Another recording, from May 1, 2019, lasted more than 50 minutes and also occurred while Grant was on duty.

¶10 Angie testified that Grant's conduct made her feel trapped and threatened: "It was intimidating, because you think … you could never again get out of a situation that you're in…. And it never ended and I felt like I was never going to get out." Angie additionally testified that Grant's conduct made her feel harassed: "I just felt completely … harassed and like no matter what I asked or did to get it to stop that it was never going to end." She testified that she did not initially report the conduct to authorities because she was fearful: "I think I was just too scared to [report him]. I felt like if I was calling when he was on duty, it was literally going to go to him and his team or it was going to go to his friends. I didn't feel like I could." Angie further testified that at the time Grant was acting this way, he was a sergeant for the sheriff's department with subordinates who worked underneath him. Grant did not testify at trial.

¶11 Prior to the jury being instructed on the law, defense counsel submitted a modified version of WIS JI—CRIMINAL 1284, the stalking instruction. As relevant here, Grant proposed that the instruction add one of the definitions of harassment found in WIS. STAT. § 813.125, the civil harassment restraining order statute. Specifically, Grant sought to include language that defined "harassment" as engaging in behavior that is not only harassing or intimidating, but also which "serve[s] no legitimate purpose." *See* § 813.125(1)(am)4.b.

¶12 The circuit court rejected the modified instruction, reasoning that the defense's proffered definition was unnecessary and that counsel was not precluded from arguing that Grant's conduct was not, in fact, harassing:

> [T]he language in the stalking statute, which includes … what would constitute to suffer serious emotional distress, means to feel terrified, intimidated, threatened, harassed, or tormented.
>
> Those words are used in their general rather than strictly legal sense, and as there is no definition of the terms terrified, intimidated, threatened, or tormented, as I believe for purposes of this statute in combination with the other elements which are defined such as what constitutes to suffer serious emotional distress, that a particular definition of "harassment" is not necessary and also that it does not preclude counsel from arguing, generally speaking, whether or not the conduct was harassing or would cause a reasonable person to feel harassed.

¶13 In closing, defense counsel argued that Grant's conduct, while annoying, was not unlawfully harassing because it was done in order to keep his marriage together. Counsel argued, "Simply asking [someone] to change their mind by using your words for a legitimate purpose does not make you a criminal."

¶14 Following closing arguments, the jury received, among its jury instructions, the pattern jury instruction for stalking. The jury found Grant guilty of stalking—specifically, relating to his conduct between April 21, 2019, and May 1, 2019—and disorderly conduct. Grant appeals the stalking conviction.

DISCUSSION

¶15 On appeal, Grant argues that the circuit court erred by refusing to give his proposed modified jury instruction regarding the definition of harassment. "A proper jury instruction is a crucial component of the fact-finding process." ***State v. Perkins***, 2001 WI 46, ¶40, 243 Wis. 2d 141, 626 N.W.2d 762, *abrogation*

on other grounds recognized by, ***Kindschy v. Aish***, 2024 WI 27, ¶14 n.9, 412 Wis. 2d 319, 8 N.W.3d 1.

¶16 While we independently review whether a jury instruction is appropriate under the specific facts of a given case, ***State v. Groth***, 2002 WI App 299, ¶8, 258 Wis. 2d 889, 655 N.W.2d 163, *abrogated on other grounds by*, ***State v. Tiepelman***, 2006 WI 66, ¶31, 291 Wis. 2d 179, 717 N.W.2d 1, we afford the circuit court great latitude when giving jury instructions, ***State v. Laxton***, 2002 WI 82, ¶29, 254 Wis. 2d 185, 647 N.W.2d 784. "Only if the jury instructions, as a whole, misled the jury or communicated an incorrect statement of law will we reverse and order a new trial." ***Id.*** If the overall meaning conveyed by the jury instructions was a correct statement of law, no grounds for reversal exist. ***Id.***

¶17 Grant was charged with stalking under WIS. STAT. § 940.32(2), which provides that whoever meets all of the following criteria is guilty of a Class I felony:

> (a) The actor intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress ….
>
> (b) The actor knows or should know that at least one of the acts that constitute the course of conduct will cause the specific person to suffer serious emotional distress ….
>
> (c) The actor's acts cause the specific person to suffer serious emotional distress ….

See also ***State v. Ruesch***, 214 Wis. 2d 548, 553, 571 N.W.2d 898 (Ct. App. 1997) (outlining the elements of § 940.32(2)); ***State v. Hemmingway***, 2012 WI App 133, ¶¶6-9, 345 Wis. 2d 297, 825 N.W.2d 303 (same). "Course of conduct" is defined in the statute as "a series of 2 or more acts carried out over time, however short or long, that show a continuity of purpose." Sec. 940.32(1)(a). "Suffer serious

emotional distress" is defined as feeling "terrified, intimidated, threatened, harassed, or tormented." Sec. 940.32(1)(d). Both the perpetrator's and the victim's mental states are elements of stalking. ***State v. Warbelton***, 2009 WI 6, ¶36, 315 Wis. 2d 253, 759 N.W.2d 557. This requirement narrows application of the statute from what would otherwise be legitimate behavior to only behavior that is intended to and does actually cause the victim to feel terrified, intimidated, threatened, harassed, or tormented or to fear bodily injury or death. ***Hemmingway***, 345 Wis. 2d 297, ¶8.

¶18 When instructing the jury at Grant's trial, the circuit court stated:

> Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following four elements were present: First, the defendant intentionally engaged in a course of conduct directed at [Angie]. "Intentionally" requires that the defendant acted with the purpose to engage in a course of conduct directed at [Angie].
>
> "Course of conduct" means a series of two or more acts carried out over time ….
>
> The second element is that the course of conduct would have caused a reasonable person to suffer serious emotional distress. "Suffer serious emotional distress" means to feel terrified, intimidated, threatened, harassed, or tormented. This does not require that [Angie] receive treatment from a mental health professional.
>
> To determine whether this element is established, the standard is what effect the course of conduct would have had on a person of ordinary intelligence and prudence in the position of [Angie] under the circumstances that existed at the time of the course of conduct.
>
> The third element is that the defendant's acts caused [Angie] to suffer serious emotional distress.
>
> The fourth element is that the defendant knew or should have known that at least one of the acts constituting the

> course of conduct would cause [Angie] to suffer serious emotional distress.

¶19 Comparing the law on stalking with the jury instruction given, we conclude that the given instruction accurately and completely stated the law. The jury instruction thoroughly and accurately explained each of the elements from the statute—i.e., (1) that the defendant intentionally engaged in a "course of conduct" that (2) would have caused a reasonable person to suffer serious emotional distress and (3) indeed did cause the victim to suffer serious emotional distress under circumstances in which (4) the defendant knew or should have known that at least one of his or her acts would have caused that result. While "harassment" is not specifically defined in the statute and was not defined for the jury, what it means to feel "harassed" for purposes of determining whether Angie suffered severe emotional distress was readily ascertainable via the jurors' common knowledge or a basic dictionary definition. *See* WIS. STAT. § 990.01(1) (stating that all words and phrases in a statute should be construed according to their common and approved usage).

¶20 Had the circuit court included Grant's proposed definition of harassment—i.e., the definition found in WIS. STAT. § 813.125(1)(am)4.b.—it would have only confused the jury and misstated the law. Grant points out that § 813.125 contains a definition of "harassment" that includes "[e]ngaging in a course of conduct or repeatedly committing acts which harass or intimidate another person *and* which serve no legitimate purpose." *See* § 813.125(1)(am)4.b. (emphasis added).[4] This is the definition he sought to include at trial. But Grant's

[4] This same definition appears in WIS. STAT. § 947.013, the misdemeanor harassment statute. *See* WIS. STAT. § 947.013(1m)(b).

proffered two-step definition of harassment is but one of two definitions given by § 813.125. The other defines harassment as "[s]triking, shoving, kicking or otherwise subjecting another person to physical contact; engaging in an act that would constitute abuse under [WIS. STAT. §] 48.02(1), sexual assault under [WIS. STAT. §] 940.225, or *stalking under [WIS. STAT. §] 940.32*; or attempting or threatening to do the same." Sec. 813.125(1)(am)4.a. (emphasis added). Thus, in order to obtain an injunction for harassment, a victim can show *either* that the perpetrator's conduct met the two-step "harassment plus no-legitimate-purpose" test *or* by showing the conduct met the elements of a number of crimes, including stalking—which, as noted, includes no definition of harassment but simply uses harassment as one type of serious emotional distress.

¶21 In other words, by creating multiple distinct paths for obtaining a harassment injunction, the legislature determined that stalking is itself harassment, and, if proven, stalking can never be committed for a "legitimate purpose." This approach makes sense. Stalking requires particularly egregious impacts on the victim—namely, the victim feeling "terrified, intimidated, threatened, harassed, or tormented"—because of conduct directed at him or her that the perpetrator knew or should have known would cause this egregious impact. These requirements inherently limit the scope of conduct that can lead to a prosecution or conviction for this crime. Under this scheme, a defendant's conduct is simply deemed to have "gone too far," regardless of the defendant's purpose—in this case, including something such as "hoping to save a marriage." Grant's definition would not only have been confusing to the jury, but it also would have eliminated the above-noted important distinctions and, therefore, misstated the law.

¶22 For these reasons, we do not find Grant's reliance on ***Perkins*** persuasive. In ***Perkins***, the Wisconsin Supreme Court overturned the defendant's

conviction for threatening a judge because the jury instructions did not require the jury to distinguish between a "true threat," as defined by a vast body of First Amendment law,[5] and threatening language that merely constituted "hyperbole, jest, innocuous talk, expressions of political views, or other similarly protected speech." ***Perkins***, 243 Wis. 2d 141, ¶¶37, 40-49. In ***Perkins***, the defendant's threat was not actionable as a matter of law unless it was a "true threat," but the jury instruction did not require the jury to make this preliminary finding. ***Id.*** In contrast, in Grant's case the jury instruction did, in fact, completely and accurately state the law. As discussed above, there is no legal requirement that a stalking victim who suffered severe emotional distress by feeling harassed must additionally prove that the harassment served no legitimate purpose.

¶23 As a final matter, we note that Grant was allowed to, and did in fact, argue that his conduct did not cause Angie serious emotional distress. In an extremely thorough cross-examination of Angie and in the closing argument, defense counsel presented an interpretation of the evidence under which Grant did not intend to or actually cause Angie to suffer serious emotional distress precisely because he was merely trying to convince her to stay in the marriage and she knew that was his purpose. Grant therefore argued that while what he was doing might have been annoying to Angie, it was not truly harassing or threatening. The jury was free to reject this view of the evidence, however, and it did so with respect to Grant's course of conduct directed at Angie between April 21 and May 1, 2019.

[5] As recognized by our supreme court in ***Kindschy v. Aish***, 2024 WI 27, ¶14 n.9, 412 Wis. 2d 319, 8 N.W.3d 1, ***Counterman v. Colorado***, 600 U.S. 66 (2023), abrogated ***State v. Perkins***, 2001 WI 46, 243 Wis. 2d 141, 626 N.W.2d 762, on the ground that ***Perkins***'s definition of "true threat" was inconsistent with the definition stated in ***Counterman***.

By the Court.—Judgment affirmed.

Recommended for publication in the official reports.