

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

March 14, 2001

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**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.

**No. 00-2710-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**BARBETTE MONTEE PETERSON,**

**PETITIONER-RESPONDENT,**

**V.**

**JOHN KOJIS,**

**RESPONDENT-APPELLANT.**

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APPEAL from an order of the circuit court for Racine County:  
DENNIS FLYNN, Judge. *Affirmed.*

Before Brown, P.J., Nettesheim and Snyder, JJ.

¶1 PER CURIAM. John Kojis appeals from the restraining order entered against him. He argues on appeal that the circuit court erred when it found that his actions constituted a course of conduct, serving no legitimate purpose,

designed to harass the respondent. Because we conclude that the record supports the circuit court's findings and conclusions, we affirm.

¶2 Kojis and the respondent, Barbette Montee Peterson, were divorced in March 1998. They have two children from the marriage. A restraining order against Kojis was in force until October 1999. Peterson asked the court for a another restraining order on the grounds of harassment. She alleged that Kojis had harassed her because of certain letters that he had sent to mutual friends and her relatives during the previous Christmas season, and because of an incident which occurred at a pool during the summer.

¶3 The letters Kojis wrote urged the recipients to reveal Peterson's prior adultery to her current husband. At a community pool the following June, Peterson and Kojis were both watching their children participate in a swim meet. When Kojis left with the children, he was angry at Peterson over what he perceived as her interference with his visitation time. As he drove off, he banged his fist on his car, swore at Peterson and made an obscene gesture at her. The circuit court concluded that Kojis's actions constituted a course of conduct designed to intimidate or harass Peterson, and the court granted the restraining order. Kojis appeals.

¶4 Under WIS. STAT. § 813.125(4) (1999-2000),<sup>1</sup> a court may grant an injunction ordering a person to cease or avoid the harassment of another if it finds "reasonable grounds to believe" that the person has violated WIS. STAT. § 947.013. Kojis asserts that his actions did not meet the legal standard of harassment.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 1999-2000 version.

¶5 Kojis argues that this issue presents a question of law which this court reviews de novo. Kojis, however, quarrels as much with the circuit court's factual findings as the legal conclusion the court drew from those facts. When reviewing the sufficiency of the evidence to support a legal conclusion, we are limited to determining whether the evidence is so lacking in probative value that no reasonable fact finder could have come to the conclusion that was reached. *Cf. State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990).

¶6 Kojis asserts that the letters he sent were not designed to harass Peterson but rather to bring closure to his relationships with the people to whom he wrote. The circuit court, however, found that the letters had an illegitimate purpose, to harass Peterson. That finding is supported by the record and we will not disturb it.

¶7 Kojis also argues that his conduct was not designed to harass Peterson. Again, the circuit court found otherwise. Kojis argues that the letters were addressed to third parties and therefore could not have been designed to harass Peterson. The letters Kojis wrote to these third parties, however, urged them to reveal Peterson's prior adultery to her new husband. Kojis argues that since he did not have control over the actions of these third parties, he could not have intended to harass Peterson. Kojis, however, wrote these letters to mutual friends and Peterson's relatives. As the circuit court found, the clear tenor of these letters was to express Kojis's outrage and to have that outrage communicated to Peterson. This evidence establishes an intention to harass Peterson.

¶8 Kojis also argues that the fact that Peterson waited six months to seek the injunction somehow affects the validity of her claim of harassment.

However, the evidence established that her concern was triggered by the incident at the pool in June. This incident prompted her to take the action she did.

¶9 Kojis also argues that his actions did not constitute a course of conduct as defined by WIS. STAT. § 947.013(1)(a). Section 947.013(1)(a) defines a course of conduct designed to harass as: “a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.” Single, isolated acts do not constitute harassment. *Bachowski v. Salamone*, 139 Wis. 2d 397, 408, 407 N.W.2d 533 (1987). In this case, however, Kojis wrote more than one letter containing the harassing statements. This was not a single, isolated incident, but “a series of acts over a period of time, however short.” Sec. 947.013(1)(a). The incident at the pool further strengthens the court’s finding that there was a course of conduct.

¶10 The evidence at the hearing fully supports the circuit court’s findings and conclusions that Kojis engaged in a course of conduct designed to harass Peterson. Consequently, we affirm the order of the circuit court.

*By the Court.*—Order affirmed.

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

