

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 22, 2002

Cornelia G. Clark
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. 02-0170
STATE OF WISCONSIN**

Cir. Ct. No. 01-CV-581

**IN COURT OF APPEALS
DISTRICT IV**

**MICHELE SOMMERFELDT,

PETITIONER-RESPONDENT,**

V.

**DONALD C. G. PAGEL,

RESPONDENT-APPELLANT.**

APPEAL from an order of the circuit court for Sauk County:
GUY D. REYNOLDS, Judge. *Affirmed.*

Before Roggensack, Deininger, and Lundsten, JJ.

¶1 PER CURIAM. Donald Pagel appeals a harassment injunction order. The issues are whether the evidence is sufficient to show harassment and whether the injunction is overbroad. We affirm.

¶2 This action was started by petitioner Michele Sommerfeldt under WIS. STAT. § 813.125 (1999-2000).¹ The circuit court granted the injunction. It found that Pagel had threatened to subject Sommerfeldt to unwanted physical contact. In particular, the court found that Pagel told Sommerfeldt that he would get even with her and that she would be sorry if she took this matter to court.

¶3 Pagel argues that the evidence is insufficient to support the finding that he made these statements. However, we conclude that the finding is supported by Sommerfeldt's testimony that he made such statements. Pagel also argues that his statements were ambiguous or had a legitimate purpose. However, we conclude that the court's finding provides reasonable grounds to believe that Pagel engaged in a course of conduct which harassed or intimidated Sommerfeldt and which served no legitimate purpose. *See* WIS. STAT. §§ 813.125(4)(a)3 and 947.013.

¶4 Pagel also argues that the injunction is overbroad because it prohibits more conduct than was proven to be harassing, and because, by prohibiting all contact, it enjoins behavior which is not harassment. The injunction in this case prohibits Pagel from contacting Sommerfeldt in person, in writing, and by telephone or electronic mail, and from causing another person to have contact with her, except through an attorney. It further prohibits Pagel from going to Sommerfeldt's place of residence or employment.

¶5 Pagel's argument is based on *Bachowski v. Salamone*, 139 Wis. 2d 397, 407 N.W.2d 533 (1987). In that case, the injunction prohibited the

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

respondent from harassing the petitioner or “having any contact with petitioner.” *Id.* at 403-04. The court said that a harassment injunction may enjoin only acts or conduct which are substantially similar to those which are proven at trial and form the basis of the harassment finding. *Id.* at 414. The court held that the injunction in that case was too broad because it enjoined contact “which simply would not constitute harassment under the statute, e.g., saying good morning to [the petitioner] or his family.” *Id.* at 414. However, we reject Pagel’s argument because, in the present case, the court could reasonably conclude that the terms of the injunction were directed at correcting the problem the court perceived, because any contact by Pagel would be harassing.

By the Court.—Order affirmed.

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

