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**DISTRICT III**

December 28, 2023

To:

Hon. Scott M. Corbett  
Circuit Court Judge  
Electronic Notice

Jeffrey S. Decker  
Electronic Notice

Shereen P. Siewert

Kelly Schremp  
Clerk of Circuit Court  
Marathon County Courthouse  
Electronic Notice

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

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2022AP1464

Shereen P. Siewert v. Jeffrey S. Decker (L. C. No. 2022CV143)

Before Stark, P.J., Hruz and Gill, 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).**

Jeffrey Decker, pro se, appeals an order granting Shereen Siewert a harassment injunction against him. Decker argues: (1) the evidence was insufficient to support the issuance of a harassment injunction; (2) the injunction violates his First Amendment right to free speech; (3) the statute under which the injunction was issued, WIS. STAT. § 813.125 (2021-22),<sup>1</sup> is unconstitutionally vague; and (4) the injunction is overbroad. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

disposition. *See* WIS. STAT. RULE 809.21. For the reasons explained below, we summarily affirm the circuit court’s order granting the harassment injunction.<sup>2</sup>

On March 11, 2022, Siewert filed a petition for a harassment injunction against Decker under WIS. STAT. § 813.125. A temporary restraining order was issued, and an injunction hearing was scheduled for March 18, 2022. Following the March 18 hearing, a court commissioner issued a harassment injunction against Decker for a period of four years. Decker sought *de novo* review of the court commissioner’s decision, and a *de novo* hearing took place before the circuit court on June 9, 2022.

At the *de novo* hearing, Siewert testified that she is the editor and publisher of Wausau Pilot and Review, a local news website, and she is also a broadcast specialist for Wisconsin Public Radio. Siewert explained that she had known Decker for five or six years, and during that time she had published some of his work on her website. She testified that “[t]hings started to get a little strange” with Decker in late October 2021, and in December he “started initiating some text messages with [her], wanting to get together.” Despite Siewert telling Decker that she was busy, he continued to contact her repeatedly via text message. In one instance, Decker texted Siewert when she was in the hospital following emergency surgery, and when she apprised him of her location, “he responded by asking if he could visit, kept on texting, asking

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<sup>2</sup> Siewert failed to file a response brief in this appeal, and Decker therefore filed a motion for summary reversal. In a June 28, 2023 order, we stated that we would not decide whether summary reversal was appropriate until the appeal had been discussed at conference. We now conclude that this appeal can be decided based solely upon Decker’s brief and the record, and we further conclude that the record plainly supports the circuit court’s decision to issue a harassment injunction. Accordingly, we deny Decker’s motion for summary reversal.

me if I would take a bi-weekly column from him that he wanted to call ‘Question Authority.’ I responded by saying that I’m literally an hour out of surgery. He kept calling.”

Decker continued calling and texting Siewert, and on December 27, 2021, she asked him to stop contacting her. Decker texted Siewert again on January 7, 2022, regarding an article that he wanted to write. Once again, Siewert asked Decker to stop contacting her, and she blocked his phone number. Decker then began emailing Siewert, sending her twenty-two emails after she asked him to stop contacting her. Siewert testified that she also asked Decker to stop contacting her multiple times via email.

On February 1, 2022, Siewert received a call from the Wausau City Hall informing her that Decker had told city employees that he worked for her. Siewert believed that Decker’s actions in that regard were harmful to her reputation, and she therefore emailed Decker and asked him to “stop claiming an association that you do not have.” Decker responded by denying that he told anyone he worked for Siewert and stating, “Chill the fuck out and do a follow-up as appropriate soon, please.” Siewert “felt like [his response] was a demand and not appropriate.” Decker later sent Siewert three more emails, after she again asked him to stop contacting her.

On March 7, 2022, Siewert wrote to Decker that he had “no professional need to contact Wausau Pilot and Review” and that she would consider any further contact to be harassment and would submit his emails to law enforcement. Decker continued contacting Siewert via email.

Siewert also testified that, on two occasions in the past, Decker had showed up unannounced at her office after she stopped answering his calls or emails. In one email, Decker told Siewert that she would “come to regret not covering his issues,” which she found

concerning. At that point, Siewert contacted the police and subsequently filed the paperwork for a restraining order.

Siewert testified that she viewed Decker's "continuing behavior" as "threatening." She stated that Decker's act of showing up at her place of employment made her "fearful" and that Decker had no reason to be there "except to try to harass and intimidate" her. She testified, "When someone calls you over and over and contacts you through constant e-mail messages and shows up at your place of employment, these are common examples of stalking, and it is very disconcerting, especially as a woman." Siewert also stated that she believed her fear was warranted, given that Decker had "a 2016 felony conviction for abusing his own child" and had "eight open criminal cases in Marathon County." When asked what she believed Decker wanted her to do, Siewert responded:

[H]e wants me to write about what he perceives as an unjust arrest at [a local middle school], as unjust behavior—or unjust treatment by school officials, by people in the city attorney's office, by the mayor's office. He wants me to write about those things. I have reviewed the complaints in each of those cases. I do not share his view that there is something amiss in the way he was treated or in the charges that were filed against him. So our opinions on that differ, but that's what he wants. He wants that, in my opinion, and he wants me to allow him to write a column about how he was unjustly treated.

....

I feel like he is trying to intimidate me into allowing him to publish a column that I have no interest in publishing. I feel he is trying to push me into writing a story about an injustice that I don't feel is real, and, ultimately, it's my decision what goes in that newspaper.

Siewert conceded that, at times, Decker had emailed her to point out spelling errors in her publication. She testified that while she initially appreciated the corrections, at some point the tone of Decker's emails changed, becoming "almost insulting." She believed that Decker's

behavior was escalating and that his actions during the incident at the middle school showed that he was spiraling out of control. She testified that Decker's behavior had frightened her coworkers, had caused her to install a security system at her home, and had resulted in her missing four days of work.

On cross-examination, Decker asked Siewert a series of questions regarding a headline from Wausau Pilot and Review stating that Decker had been arrested outside of the city attorney's office following a disturbance. He questioned Siewert about her refusal to change the headline to refer to an "alleged" disturbance. Siewert responded that the headline did not need to be changed because the police report regarding the incident stated that Decker's behavior had disturbed the people in the office.

During his testimony, Decker asserted that he had not harassed Siewert, although he conceded that Siewert's testimony regarding their past contacts was "[m]ostly" accurate. Decker testified that his intent in contacting Siewert was "to get the truthful story out there" and "to help Wausau Pilot and Review be the finest news source it can be." Decker also testified that on one of the occasions when he was present at Siewert's place of employment, he stayed in the hallway and spoke to an old friend, which was a legitimate reason to be in that location. Decker also testified that his requests that Siewert edit the headline discussed above to state that he had been arrested following an "alleged" disturbance were reasonable because the AP Stylebook states that "alleged" should be used "when necessary to make it clear that an unproved action is not to be treated as fact." Finally, Decker stated that while he regretted "being perhaps over the top and alienating" Siewert, it was "never [his] intent to harass or intimidate or demean or insult her."

The circuit court determined that Decker had engaged in a course of conduct or had repeatedly committed acts that harassed or intimidated Siewert. The court further concluded that there were reasonable grounds to believe that Decker had engaged in harassment with the intent to harass or intimidate Siewert. The court credited Siewert's testimony that Decker had continued to contact her, even after she had asked him to stop on five occasions. The court also credited Siewert's testimony that she felt intimidated by Decker's conduct. The court explained:

I believe that what you are trying to do is impose your will that she publish material regarding your issues or that she publish material regarding your issues in the way that you want it to be published .... [Y]our intent here is to impose your will upon Ms. Siewert. And, in that sense, you have crossed the line.

The court also concluded that Decker did not have a legitimate purpose in continuing to contact Siewert after she had repeatedly asked him to stop doing so. The court therefore issued a harassment injunction against Decker for a period of four years, following a discussion with the parties regarding the scope of the injunction.

On appeal, Decker first argues that the evidence at the de novo hearing was insufficient to support the issuance of a harassment injunction. A court may order a harassment injunction if it “finds reasonable grounds to believe that the respondent has engaged in harassment with intent to harass or intimidate the petitioner.” WIS. STAT. § 813.125(4)(a)3. As relevant here, harassment means “[e]ngaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.” Sec. 813.125(1)(am)4.b.

Whether reasonable grounds exist for the issuance of a harassment injunction presents a mixed question of fact and law. *Welytok v. Ziolkowski*, 2008 WI App 67, ¶23, 312 Wis. 2d 435, 752 N.W.2d 359. We will not set aside the circuit court's factual findings unless they are clearly

erroneous, but “[w]e independently review the circuit court’s conclusion, based on the established facts, whether such reasonable grounds exist.” *Id.* If reasonable grounds exist, “whether or not to finally grant an injunction is within the sound discretion of the circuit court, and our review ultimately is limited to whether that discretion was properly exercised.” *Id.*

Decker contends that the evidence was insufficient to support the issuance of a harassment injunction because he did not intend to harass Siewert and because his contact with her had a legitimate purpose. *See* WIS. STAT. § 813.125(1)(am)4.b., (4)(a)3. In essence, Decker asserts that his contact with Siewert was intended to protect his own reputation and to help Siewert by correcting errors in her publication. The circuit court found, however, that Decker continued contacting Siewert after she had asked him to stop five times. The court further found that Decker’s intent was to impose his will on Siewert to make her write about certain issues and to cover those issues in the way that he wanted them covered. These factual findings are supported by the evidence summarized above and are not clearly erroneous. While Decker testified that he did not intend his repeated and persistent contact with Siewert to be harassing, the court clearly did not find his testimony in that regard to be credible. *See State v. Peppertree Resort Villas, Inc.*, 2002 WI App 207, ¶19, 257 Wis. 2d 421, 651 N.W.2d 345 (“When the circuit court acts as the finder of fact, it is the ultimate arbiter of the credibility of the witnesses and the weight to be given to each witness’s testimony.”). The court’s findings provide reasonable grounds to believe that Decker intended to harass Siewert and that his actions served no legitimate purpose.

Decker also asserts that “family tragedies made [Siewert] overly sensitive.” At the de novo hearing, Siewert testified that her father and stepfather had died in February 2022, and her sister died five weeks before the de novo hearing. She therefore acknowledged that she was

“perhaps a little more sensitive right now”; however, she also stated, “[T]hat doesn’t mean my judgment over whether or not someone poses a potential danger to me and my family is affected.” Siewert also testified that during her career as a journalist, she had covered “a lot” of criminal cases, including homicides and robberies, and she had “never ever felt the need to file a restraining order against anyone” before. She specifically testified that she felt threatened, frightened, and intimidated by Decker’s actions, and the circuit court credited her testimony in that regard. The record supports a determination that a reasonable person in Siewert’s position would have felt threatened and intimidated by Decker’s conduct, even absent the personal tragedies that Siewert had recently suffered.<sup>3</sup>

Decker next asserts that his contact with Siewert was not threatening and, accordingly, his “speech was constitutionally protected.” He therefore claims that the issuance of the injunction violated his First Amendment right to free speech.

Decker’s First Amendment argument is undeveloped. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). He fails to acknowledge that “an individual’s First Amendment speech rights are ‘not absolute’” and that the right to free speech can be restricted when a person engages in harassment with the intent to harass and intimidate another. See *Board of Regents–UW Sys. v. Decker*, 2014 WI 68, ¶45, 355 Wis. 2d 800, 850 N.W.2d 112 (citation omitted). Regardless, the injunction issued in this case does not enjoin Decker’s speech; it enjoins him from *contacting* Siewert. Decker still has the right to speak his mind and

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<sup>3</sup> Decker asserts that he never threatened anyone. Siewert testified, however, that she found Decker’s conduct to be threatening, and the evidence supports a determination that a reasonable person in Siewert’s position would have felt the same way. Decker cites no legal authority in support of the proposition that a direct threat is required for a person’s behavior to constitute harassment under WIS. STAT. § 813.125.



disagree with Siewert, he simply may not do so by contacting Siewert during the term of the injunction.

Decker also asserts that WIS. STAT. § 813.125 is unconstitutionally vague. Decker forfeited this argument, however, by failing to raise it in the circuit court. *See Tatera v. FMC Corp.*, 2010 WI 90, ¶19 n.16, 328 Wis. 2d 320, 786 N.W.2d 810 (“Arguments raised for the first time on appeal are generally deemed forfeited.”). In addition, there is nothing in the record showing that Decker has notified the attorney general of his constitutional challenge to § 813.125. *See* WIS. STAT. § 806.04(11) (“If a statute ... is alleged to be unconstitutional ... the attorney general shall also be served with a copy of the proceeding and be entitled to be heard.”); *see also Kurtz v. City of Waukesha*, 91 Wis. 2d 103, 117, 280 N.W.2d 757 (1979) (holding that § 806.04(11)’s requirement of service on the attorney general applies “in all cases involving constitutional challenges”). Decker’s failure to notify the attorney general of his constitutional challenge to § 813.125 would prevent us from reviewing that issue, even if Decker had raised the issue below. *See Kurtz*, 91 Wis. 2d at 117 (refusing to review the appellant’s constitutional challenge to a statute where the record was “devoid of evidence of service” on the attorney general).

Finally, Decker argues that the scope of the harassment injunction is overbroad because it “prohibit[s] contact beyond that described in the original petition.” More specifically, Decker complains that the injunction prohibits in-person contact with Siewert at certain locations, even though, according to Decker, only his emails to Siewert were found to be harassing. Decker also argues that the injunction is overbroad because it “restrict[s] access to public land even when [Siewert] is not present.”

We conclude that Decker forfeited his arguments regarding the scope of the injunction by failing to raise them in the circuit court. *See Tatera*, 328 Wis. 2d 320, ¶19 n.16. At the end of the de novo hearing, after the court determined that Siewert had satisfied the criteria for the issuance of a harassment injunction, the court ordered Decker to avoid Siewert’s residence or any premises temporarily occupied by Siewert and to avoid contact that harasses or intimidates Siewert. The court specified that such contact “includes contact at [Siewert’s] home, work, school, public places, in person, by phone, in writing, by electronic communication or device, or in any other manner.” Siewert has an office in a university building that also houses a theater, and Decker specifically asked the court to tailor the injunction to state that he must “avoid that building during business hours” but may “go there for theater productions.” Siewert responded that she is sometimes in the theater for work purposes, and she suggested that the court allow Decker to be present in the theater “for scheduled performances.” The court adopted that suggestion. The court then asked Decker whether the injunction’s requirements were “comprehensible,” and Decker responded that he understood. Thereafter, the court engaged in an additional discussion with Siewert regarding the geographic scope of the injunction, with respect to her office on the university campus.

During the parties’ discussion with the circuit court regarding the scope of the injunction, Decker never suggested that the injunction was overbroad, either because it restricted in-person contact with Siewert or because it restricted his access to public land. If Decker had raised those objections below, the court could have corrected any potential error regarding the injunction’s scope. By failing to raise his current arguments regarding the scope of the injunction below, Decker forfeited his right to raise them on appeal. *See Tatera*, 328 Wis. 2d 320, ¶19 n.16. We

will not blindsides the circuit court with a reversal based on a theory that did not originate in its forum. *See State v. Rogers*, 196 Wis. 2d 817, 827, 539 N.W.2d 897 (Ct. App. 1995).

Therefore,

IT IS ORDERED that the order is summarily affirmed. WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*