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DISTRICT III

March 3, 2026

To:

Hon. Martha J. Milanowski
Circuit Court Judge
Electronic Notice

Nicole Freund
Electronic Notice

Beth Soltow
Clerk of Circuit Court
Vilas County Courthouse
Electronic Notice

Perry West
Electronic Notice

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

2024AP2009

Nicole Freund v. Perry West (L. C. No. 2024CV91)

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).

Perry West, pro se, appeals a harassment injunction entered against him for the protection of Nicole Freund.¹ Based upon our review of West's brief and the record,² we conclude at

¹ Because this case involves the testimony of both Nicole Freund and her mother, Marguerite Freund, we refer to Nicole and Marguerite by their first names throughout the remainder of this summary disposition order.

² Nicole did not file a brief in this appeal.

conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).³ For the reasons that follow, we summarily affirm.

Nicole filed a petition for a harassment injunction against West on August 29, 2024. Based on the allegations in the petition, the circuit court granted Nicole a temporary restraining order against West and scheduled an injunction hearing.

At the injunction hearing on September 11, 2024, Nicole’s mother, Marguerite, testified that she and Nicole both worked at a gas station in Sayner, Wisconsin, where West was a customer. During the summer of 2024, Marguerite became concerned about West’s conduct toward Nicole and asked him to leave Nicole alone. West responded that Marguerite “did not understand what his intentions were toward” Nicole, and Marguerite replied that his intentions did not matter to her, as Nicole was 25 years old and West was Marguerite’s age and was married to Marguerite’s friend.⁴

Marguerite testified that she and Nicole subsequently each received a letter from West. Those letters were attached to Nicole’s injunction petition and were received into evidence at the injunction hearing. West’s twelve-page letter to Nicole recounted that one night in 2023, West had decided to end his life. However, he went to the gas station to buy cigarettes first, and he then saw Nicole—“the most beautiful, precious, innocent face that [he] had ever seen”—for the first time. The letter stated that West “fell in love [with Nicole] in that instant” and “came out of

³ All references to the Wisconsin Statutes are to the 2023-24 version.

⁴ West subsequently testified that he was 65 years old at the time of the injunction hearing.

that dark hole rejuvenated and hungry to battle life again.” He believed that their meeting was not a coincidence but was “preplanned” by God.

The letter further recounted that, after that first meeting, West “was making a point to come see [Nicole]” at the gas station, but he “tried to keep it to once a week as not [to] be overly obvious about it.” Ultimately, around Mother’s Day weekend in 2024, West asked Nicole to “go on a little cruise and [get] ice cream,” and Nicole initially agreed to do so. However, West was then “confronted by a fire[-]breathing monster accusing [him] of bothering [Nicole] and stalking [her]”—i.e., Marguerite. In the letter, West denied stalking Nicole or driving by her house, asserting instead that he had driven down the dead-end road where Nicole lived because he was checking on a property where he had been hired to cut the grass.

West’s letter to Nicole also relayed West’s belief that the end of the world—or, at least, the destruction of the United States—would occur within the next six to ten years and that “Christ himself wants me to take you and your child, under my wing, before the coming trials and tribulations[,] for guidance, teaching, hope and protection. Then take you & [your child] to paradise before the shit hits the fan.”⁵ The letter stated that Christ had chosen West “[t]o teach you the truth about Christ’s great love for you and [your son] and make sure you are not deceived and deliver you and [your son] to him,” and that “somewhere during this time of me teaching you, you and I will become one ... for the purpose of being raptured to paradise as one.” The letter continued,

⁵ At the injunction hearing, Nicole testified that she had a son who had just turned four.

You and your child will move into my home, and it will become your home while we are still here. You will have the opportunity to be a stay[-]at[-]home [m]om and home[.]school your child if you should desire to [do] that. You will help me get my business going to full capacity. You will make what is left of this home back into a nice home. Other than that, we would just enjoy life, and on slow days continue to build that wall of faith around you and [your son]. We would live life as normal. Then just prior to the United States['] destruction Christ will rapture you, [your son] and myself into paradise without you, [your son] or me even tasting death.

Near the end of the letter, West stated:

If by chance I do bother you, and the letter has disturbed you, please except [sic] my apologies. I would understand if you didn't bother with an answer. If that is the case ..., I give you my word I will never make another attempt at seeing you again, contacting you, or coming to [the gas station] anymore.

West then concluded the letter with a "riddle" that inquired whether he would ever see Nicole's "glorious behind."

In his letter to Marguerite, West asserted that his intentions toward Nicole were "above board" and "decent in nature" and that seeing Nicole at the gas station for "less [than a] minute" puts him in a "good mood for the rest of the day." West further stated that when he asked Nicole to go out for ice cream, he did not expect Marguerite to "go out of control sideways and rip [his] face off." He continued:

What really upset me was when I came back into the store, and arranged a time for us to talk in the [p]ark, you stood me up and did not bother to show up. What you said to me was far more rude than [sic] anything I said or did [with] Nicole. I can provide the documentation and the signed contract for the business I had on [Nicole's road] if that would make you feel better. I had no idea Nicole lived on that road until you told me. I had already been down that road on several occasions[.] Maybe you should be the one apologizing. I did nothing in my opinion that should have offended you the way it did[,] or made you feel I betrayed your friendship in some [way], but obviously I did, so I do humbly apologize for making you so upset and angry.

Marguerite testified at the injunction hearing that West’s letter to Nicole made her feel “[p]hysically sick,” that she was concerned for Nicole, and that she viewed the letter as harassing and intimidating. Marguerite further testified that West was no longer allowed in the gas station where she and Nicole worked, and Marguerite had not seen him recently.

Nicole testified that she knew West as a customer at the gas station where she and Marguerite worked, but she had never socialized with him outside of work. She became uncomfortable earlier in 2024 after West asked her to “go hang out with him.” Nicole explained that she initially said “yes” “in a moment of uncertainty,” but she then “tried to push it off.” Nicole testified, “[A]fter that interaction is when my mom stepped in and said something and I got my letter.”

Nicole further testified that she had seen West drive by her house on one occasion, and he “claimed that he had work[-]related things that were down [her] road.” Third parties also reported to law enforcement that West “was riding his bike past” Nicole’s house on one occasion and was “seen sitting staring at [her] road” on another occasion.

Nicole testified that after she received the letter from West, she felt “[v]ery uncomfortable” and “[s]cared and nervous.” She explained that after she received the letter, West stopped coming into the gas station “for quite a while.” However, Nicole decided to seek a harassment injunction after West “recently start[ed] coming into the gas station when [Nicole] wasn’t working” and after he was reportedly seen outside of her house. Nicole testified that she was intimidated by West’s actions and that she did not feel they served any legitimate purpose. On cross-examination, Nicole conceded that she had not personally seen West since Memorial Day weekend of 2024.

West testified at the injunction hearing that he had not seen Nicole in over four months. He conceded that his letter to Nicole “got a little out of hand,” but he stated its intent was to explain “why I was down that road.” West admitted that he had driven by Nicole’s home at one point, but he asserted that he did not know Nicole lived on the road in question at that time and that he was driving down that road to check on a property where he had been hired to cut the grass. West also conceded that one evening “in mid-August,” he was frustrated “with this stalking charge that’s been building” and with the fact that he had given up the contract to cut the grass at the property on Nicole’s road. West testified, “[I]t got to me[,] and I put my bike in the back of the truck and I drove up there and drove past her house. She wasn’t supposed to see me. But somebody did.” As for the incident when Nicole accused him of sitting across the road and staring toward her house, West asserted that based on the location of his vehicle, it would have been impossible for him to see Nicole’s house. In her closing argument, however, Nicole contended that it would have been possible for West to see her dead-end road from his purported location.

The circuit court determined that Nicole had satisfied the criteria for the issuance of a harassment injunction because there were “reasonable grounds to believe that [West] engaged in harassment with intent to harass or intimidate [Nicole].” The court specifically found that West had engaged in “a course of conduct” that “harassed and intimidated” Nicole and that there was no “legitimate purpose” for West’s actions.

In support of its decision, the circuit court cited the 40-year age difference between Nicole and West and the fact that they “never knew one another” before West began coming into the gas station where Nicole worked. The court also cited the “bizarre” letters that West had sent to Nicole and Marguerite and characterized the letter to Nicole, in particular, as “deeply

disturbing and concerning.” The court reasoned that while there is “nothing illegal generally about asking someone out who is 40 years younger, ... when someone says no and has asked you to stay away and you write a letter many, many pages in length, it’s concerning.” Additionally, the court found that being told to leave Nicole alone clearly “upset Mr. West to the point where one night he got in his car and drove down toward [Nicole’s] house which is on a dead-end road.”

The circuit court acknowledged that West had apparently “stopped doing this”—i.e., stopped contacting Nicole—but the court stated that in the context of West’s concerning letter to Nicole, “three months of voluntarily staying away is not enough for the Court to be satisfied that you will continue to avoid her.” However, while Nicole had requested a four-year harassment injunction, the court determined that it was instead appropriate to issue a two-year injunction, in light of West’s “statement that he has taken it seriously, finally, and is no longer contacting her.” Under these circumstances, the court determined that a two-year injunction was sufficient to “let things settle down.”

On appeal, West first argues, for several reasons, that the evidence presented at the injunction hearing was insufficient to support the issuance of a harassment injunction. A circuit court may issue 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.*

Here, the evidence was sufficient for the circuit court to grant Nicole a harassment injunction against West, and the court did not erroneously exercise its discretion by doing so. Nicole presented evidence that West initially approached her at her work to discuss seeing her outside of work, after which he was seen driving down the dead-end road where she lived. After Marguerite told West to leave Nicole alone, West sent letters to both Nicole and Marguerite. We agree with the circuit court’s assessment that West’s letter to Nicole, in particular, was “deeply disturbing and concerning.” Although the evidence showed that West did not contact Nicole between sending the letter and the injunction hearing, West admitted that on one occasion during that time period, he drove past Nicole’s house out of frustration. Nicole testified that West’s actions made her feel “[v]ery uncomfortable,” “[s]cared,” and “nervous” and that she was intimidated by his conduct. On this record, there were reasonable grounds to believe that West had engaged in harassment with the intent to harass or intimidate Nicole—that is, that he engaged in a course of conduct that harassed or intimidated Nicole and served no legitimate purpose. *See* WIS. STAT. § 813.125(1)(am)4.b., (4)(a)3.

In support of his claim that the evidence was insufficient to support the issuance of a harassment injunction, West asserts that there were “multiple cases of false swearing” in

Nicole’s petition for a harassment injunction. Our inquiry, however, is whether the evidence presented *at the injunction hearing* was sufficient to support the issuance of an injunction. West does not explain how the presence of any allegedly false statements in the injunction petition is relevant to our analysis.⁶

West also asserts that Marguerite committed perjury at the injunction hearing when she responded “[n]o” to the circuit court’s question, “Did [West’s letter to Nicole] serve in your opinion any legitimate purpose?” and when she responded “[y]es” to the court’s question, “So you tried to address the situation in a way that would resolve without coming to Court?” Perjury occurs, however, when a person, while under oath or affirmation, “makes a false material statement” before a court “*which the person does not believe to be true.*” WIS. STAT. § 946.31(1) (emphasis added). West has presented no evidence that Marguerite did not *believe* her responses to the court’s questions to be true. Regardless, even discounting Marguerite’s responses to those two questions, there was sufficient evidence for the court to conclude that reasonable grounds existed to issue a harassment injunction.

Next, West asserts that the evidence was insufficient because the circuit court allowed Nicole to provide hearsay testimony. However, West did not object to the testimony in question

⁶ Additionally, West has not established that any of the cited statements in the injunction petition were, in fact, false, or that Nicole did not believe those statements to be true at the time she filed the injunction petition. *See* WIS. STAT. § 946.32(1)(a) (setting forth the elements of false swearing). For instance, West asserts that Nicole falsely stated in the injunction petition that he was “stalking” her because he drove by her home. West claims that statement was false because Nicole testified at the injunction hearing that West “drove by and claimed that he had work[-]related things that were down [her] road.” According to West, “[t]his proves Nicole knew [he] had business down that road and that [he] was not stalking her.” However, Nicole’s testimony that West “claimed” he had a work-related reason for driving down her road does not compel a conclusion that Nicole “knew” that West had a legitimate purpose for driving down her road and therefore “knew” that he was not stalking her.

during the injunction hearing. Consequently, he has failed to preserve his argument that the court erred by admitting hearsay testimony, and we will not address that issue further. *See* WIS. STAT. § 901.03(1) (explaining that in order to preserve an argument that the circuit court improperly admitted evidence, the record must contain “a timely objection or motion to strike ... stating the specific ground of objection, if the specific ground was not apparent from the context”); *see also 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.”).

West also asserts that the evidence was insufficient to show that he engaged in a “course of conduct,” that his actions had no “legitimate purpose,” and that he intended to harass or intimidate Nicole. *See* WIS. STAT. § 813.125(1)(am)4.b., (4)(a)3. We have already explained, however, that the evidence *was* sufficient to establish those elements. The evidence showed multiple acts by West directed at Nicole, constituting a “course of conduct.” While West asserts that his actions had a legitimate purpose, neither the circuit court nor this court is required to accept his assertion in that regard, given the contrary evidence presented at the injunction hearing. Additionally, West’s actions, when viewed as a whole, give rise to a reasonable inference that he intended to harass or intimidate Nicole.

Separate from his arguments regarding the sufficiency of the evidence, West also asserts that the circuit court was objectively biased against him. “The right to an impartial judge is fundamental to our notion of due process.” *State v. Goodson*, 2009 WI App 107, ¶8, 320 Wis. 2d 166, 771 N.W.2d 385. When evaluating a judicial bias claim, we presume that the judge has acted fairly, impartially, and without bias. *Id.* To overcome this presumption, the party asserting judicial bias must demonstrate the existence of bias by a preponderance of the evidence. *Miller v. Carroll*, 2020 WI 56, ¶21, 392 Wis. 2d 49, 944 N.W.2d 542. Whether the

party asserting bias has made that showing is a question of law that we review independently. *Id.*, ¶15.

In an objective bias analysis, the party asserting bias may rebut the presumption of impartiality by showing either actual bias or a serious risk of actual bias. *See Goodson*, 320 Wis. 2d 166, ¶14; *Miller*, 392 Wis. 2d 49, ¶22. We determine whether there is a serious risk of actual bias “based on objective and reasonable perceptions.” *Miller*, 392 Wis. 2d 49, ¶24 (citation omitted). This analysis requires an inquiry into “whether the circumstances ‘would offer a possible temptation to the average ... judge to ... lead him not to hold the balance nice, clear and true.’” *Id.*, ¶24 (citation omitted). “[I]t is the exceptional case with ‘extreme facts’ which rises to the level of a ‘serious risk of actual bias.’” *Id.* (citation omitted).

West first argues that the circuit court “showed judicial bias by issuing a harassment injunction.” (Formatting altered.) Relatedly, West asserts that the court was biased because its decision to issue the harassment injunction was “not supported by the evidence.” We have already concluded, however, that the evidence presented at the injunction hearing *was* sufficient to support the issuance of the injunction. Moreover, “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” *Liteky v. United States*, 510 U.S. 540, 555 (1994).

West also asserts that the circuit court demonstrated bias when it “just accepted ‘hearsay’ testimony as evidence.” This argument fails because, as noted, West did not object to any testimony introduced at the injunction hearing on hearsay grounds. If West believed that particular testimony violated the hearsay rule, it was his responsibility to make an objection on that basis. *See* WIS. STAT. § 901.03(1)(a). West cites no legal authority in support of the

proposition that a judge's failure to sua sponte exclude testimony as hearsay demonstrates objective bias. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (explaining that the court of appeals need not address undeveloped arguments or arguments unsupported by references to legal authority).

West further argues that the circuit court was objectively biased because it “knew” that Nicole’s injunction petition contained false statements and that both Nicole and Marguerite had testified falsely at the injunction hearing. West has failed to show, however, that any of the statements in question were actually false, that either Nicole or Marguerite knew that the statements were false at the time they made the statements, or that the circuit court knew that either Nicole or Marguerite had committed perjury or false swearing. See WIS. STAT. §§ 946.31, 946.32. We therefore reject West’s assertion that the court demonstrated objective bias by relying on Nicole’s and/or Marguerite’s testimony.

West also asserts that the circuit court reviewed his letter to Nicole before the injunction hearing, decided that the age difference between Nicole and West “was an issue,” and therefore decided to grant a harassment injunction “before Mr. West entered the [courtroom].” To the extent West faults the court for reviewing his letter to Nicole prior to the injunction hearing, we note that the court was required to do so in order to decide whether to grant Nicole’s request for a temporary injunction. Additionally, we conclude there is no evidence in the record to support a claim that the court had already decided to issue a harassment injunction before the injunction hearing began.

Finally, West argues that the circuit court demonstrated objective bias by asking Nicole questions during her testimony and thereby acting as Nicole’s attorney. We disagree. Given that

both parties were self-represented, the court reasonably exercised its discretion by questioning Nicole, Marguerite, and West during their respective direct examinations in order to elicit the information that the court needed to know to decide whether to grant a harassment injunction. *See* WIS. STAT. § 906.11(1)(a) (providing that a judge “shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to ... [m]ake the interrogation and presentation effective for the ascertainment of the truth”); *State v. Smith*, 2002 WI App 118, ¶15, 254 Wis. 2d 654, 648 N.W.2d 15 (acknowledging that § 906.11(1) provides the circuit court with broad discretion in its control over the presentation of evidence). Having reviewed the transcript of the injunction hearing, we see nothing in the court’s questioning of Nicole, as opposed to the court’s questioning of West, that demonstrates objective bias.⁷

Ultimately, West has failed to show either actual bias by the circuit court or a serious risk of actual bias. We therefore reject West’s argument that the court was objectively biased against him.⁸

⁷ West also suggests that the circuit court prevented him from questioning Nicole. The transcript of the injunction hearing clearly shows, however, that West was given the opportunity to—and did—cross-examine Nicole. Later, while West was testifying, he sought to ask Nicole a question, and the court responded, “Well, she already testified. And you can’t ask her any questions now.” West cites no legal authority in support of the proposition that the court should have allowed him to pose a question to Nicole *during his own testimony*, after Nicole had already testified and he had been allowed to cross-examine her.

⁸ With respect to both judicial bias and sufficiency of the evidence, we have addressed West’s arguments as best we can discern them. To the extent West intended to raise additional arguments that we have not specifically addressed in this summary disposition order, we reject them as insufficiently developed. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

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.

Samuel A. Christensen
Clerk of Court of Appeals