



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

April 14, 2026

To:

Hon. Maureen D. Boyle
Circuit Court Judge
Electronic Notice

Tyler Kongslien
Electronic Notice

Sharon Millermon
Clerk of Circuit Court
Barron County Justice Center
Electronic Notice

Marisa Ann Lee
Electronic Notice

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

2024AP2593

Petitioner v. Danielle Christine Alinea (L. C. No. 2024CV324)

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).

Danielle Alinea appeals from a domestic abuse injunction that prohibits her from having contact with her ex-husband, Phillip,¹ for a period of four years. Alinea contends that the circuit court failed to apply the correct legal standard for “true threats” and that its finding that she had engaged in domestic abuse by threatening to harm Phillip is clearly erroneous. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for

¹ Because the petitioner in a domestic abuse injunction case is to remain confidential, we use a pseudonym for the petitioner’s name.

summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).² We conclude that the court’s finding is neither contrary to the true threats standard nor clearly erroneous when taking into account Alinea’s expressive conduct as well as her verbal statements. For the reasons that follow, we summarily affirm.

A circuit court may grant a domestic abuse injunction upon finding “reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.” WIS. STAT. § 813.12(4)(a)3. Domestic abuse (which applies, as relevant here, when committed against a former spouse) is defined to include the intentional infliction of physical pain or injury, impairment of physical condition, sexual assault, stalking, damage to personal property, and threats to commit any of those acts. Sec. 813.12(1)(am).

This court will uphold a circuit court’s finding that grounds exist to support a domestic abuse injunction unless that finding is clearly erroneous. *Wittig v. Hoffart*, 2005 WI App 198, ¶19, 287 Wis. 2d 353, 704 N.W.2d 415. A finding is not clearly erroneous unless—after accepting all credibility determinations made and reasonable inferences drawn by the factfinder—the great weight and clear preponderance of the evidence support a contrary finding. *Noll v. Dimiceli’s, Inc.*, 115 Wis. 2d 641, 643-44, 340 N.W.2d 575 (Ct. App. 1983).

An injunction that is premised upon threats constitutes a content-based restriction on speech subject to the boundaries of the First Amendment. *Kindschy v. Aish*, 2024 WI 27, ¶12, 412 Wis. 2d 319, 8 N.W.3d 1. The First Amendment applies to “expressive conduct” as well as

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

oral and written communications. *State v. Baron*, 2009 WI 58, ¶16, 318 Wis. 2d 60, 769 N.W.2d 34; *see* WIS JI—CRIMINAL 1900 n.1 (2025) (stating a threat may be conveyed orally, in writing, or by conduct). A “true threat” that objectively conveys a person’s serious intent to commit an act of unlawful violence is not protected by the First Amendment when the person “consciously disregarded a substantial risk that his [or her] communications would be viewed as threatening violence.” *Kindschy*, 412 Wis. 2d 319, ¶¶14-15 (citation omitted). This court will independently determine whether an injunction violates the First Amendment. *Id.*, ¶9.

Here, Phillip testified that he and Alinea married in 2017 after dating for several years and had a child together in 2018. Beginning in 2020, the two had a series of arguments during which Alinea shoved Phillip, grabbed him by the throat, hit him, and scratched him. The parties separated in 2021 and were divorced in 2022.

On July 2, 2024, Alinea showed up at Phillip’s place of work before it opened for business and violently banged on the door. Phillip started an audio recording on his phone to protect himself before opening the door. After bursting through the door, Alinea began screaming at Phillip and getting in his face, pushed him further and further into the room by hitting him with open hands, and eventually pinned him against a wall as she continued to yell at him and shove him. Alinea then started kicking boxes of inventory, grabbed the hat off of Phillip’s head and the glasses off of his face, and knocked over food trays and pans.

Throughout the encounter, Phillip repeatedly asked Alinea to leave. Although Alinea knocked Phillip’s phone out of his hand at one point, Phillip eventually was able to call 911. Alinea then knocked over some chairs and left the scene, still yelling and screaming. As a result

of the incident, the State charged Alinea with disorderly conduct as an act of domestic abuse, and the circuit court entered an order prohibiting Alinea from “abusive contact” with Phillip.

Over the next few days, Alinea sent Phillip a series of abusive text messages. Based upon the texts, the State additionally charged Alinea in a new case with bail jumping and harassment by computer message.

On September 30, 2024, Phillip met with Alinea in a public park to discuss their child, in the presence of Phillip’s mother and Alinea’s father. During the meeting, which Phillip also recorded and played for the circuit court, Alinea snatched the glasses off of Phillip’s face and threw them on a bench.

The circuit court admitted into evidence and reviewed the recordings Phillip made of the July 2 and September 30 incidents. In the July 2 recording, Alinea can be heard yelling, “I want to break you down,” and “You will pay.”

Phillip’s mother testified that she had witnessed Alinea’s verbally aggressive behavior toward Phillip on multiple occasions and Alinea’s physically aggressive behavior toward Phillip on one occasion. She confirmed Phillip’s account of the September 30 incident.

Alinea testified that she did not believe an injunction was necessary because she did not pose a “physical threat” to Phillip. She acknowledged putting her hands around Phillip’s throat on one occasion shortly before they separated, but she denied repetitively hitting and choking Phillip throughout the marriage. She did not specifically address the July 2 and September 30 incidents, due to the pending charges.

In its oral ruling, the circuit court stated that it could hear on the July 2 recording Alinea yelling at Phillip in the context of Phillip’s alleged sexual abuse of their child, what sounded like physical contact, and a comment by Phillip not to hit him. The court observed that Phillip had not testified as to any specific injuries or pain he suffered as a result of the physical contact, and he had not indicated whether his glasses were damaged. The court also noted that Alinea had been charged with disorderly conduct rather than battery. The court nonetheless found that physical contact had occurred, that Alinea had made threats to harm Phillip, and that there were reasonable grounds to believe that domestic abuse had occurred. The court subsequently issued a broader written order, in which it found reasonable grounds to believe that Alinea had engaged in, or based upon prior conduct of Phillip and Alinea, may engage in, domestic abuse of Phillip.

Alinea first faults the circuit court for failing to discuss the “true threats” standard. Any such failure is immaterial to the outcome of this appeal because, as noted above, we independently determine whether an injunction has violated the First Amendment.³ We will therefore simply evaluate for ourselves whether the true threats standard has been met in conjunction with our review of whether the court’s finding that Alinea had engaged in domestic abuse by making threats is clearly erroneous.

Alinea argues that any oral statements she made during the July 2 and September 30 incidents fall short of “true threats” because there is no evidence that: (1) Phillip experienced any

³ We acknowledge the statement in *Kindschy* that, before issuing a civil harassment injunction, a circuit court must find that the respondent consciously disregarded a substantial risk that a communication would be viewed as threatening violence. *Kindschy v. Aish*, 2024 WI 27, ¶12-13, 412 Wis. 2d 319, 8 N.W.3d 1. We see no logical reason, however, why that finding cannot be deemed to be implicit in the court’s ultimate finding that grounds for a domestic injunction have been established—particularly when the standard injunction form does not make any separate reference to true threats.

actual fear of harm during the incidents; or (2) Alinea could reasonably foresee that her statements would be construed to convey a “serious” expression of intent to harm Phillip, rather than as “innocuous or even hyperbolic forms of frustration over one another’s parenting.” Neither argument is persuasive.

To begin with, there is no requirement that Phillip subjectively experienced any fear. As we explained above, under the applicable objective test for true threats, the question is whether Alinea expressed any threat that would convey to a reasonable person that she had a serious intent to engage in unlawful violence. In this respect, Alinea focuses too narrowly on her oral statements without acknowledging that threats also may be conveyed by conduct. Thus, even if shoving or striking Phillip did not cause him actual pain or injury, that conduct would be understood by a reasonable person as evincing a serious intent to cause pain or injury. Likewise, even if pulling Phillip’s glasses off of his face and throwing them onto a bench did not actually damage the glasses, that conduct would be understood by a reasonable person as evincing a serious intent to damage his personal property.

In addition, when taken in conjunction with Alinea’s actual violence toward Phillip, her contemporaneous statement to Phillip that he would “pay” certainly would convey to a reasonable person a serious intent to commit further violence. The fact that the statement was made in the context that Alinea believed Phillip had sexually abused their child does not lead to the conclusion that the threat was innocuous. If anything, that emotionally charged background increases the likelihood of a violent response.

As to the requisite mental state, Alinea disregarded a substantial risk that her conduct and statements would be viewed as threatening violence when she ignored Phillip’s requests that she

leave and stop hitting him and when she knocked Phillip's phone out of his hand when he tried to call for help. Based upon all of this evidence, we conclude that the circuit court's determination that Alinea had committed domestic abuse by making threats against Phillip was not clearly erroneous, and the injunction did not violate the First Amendment.

Finally, Alinea asks this court to take judicial notice of the fact that she was subsequently acquitted of the disorderly conduct charge. However, subsequent events are not relevant to our review of whether the circuit court acted properly based upon the information that was before it when it made its decision.

Upon the foregoing,

IT IS ORDERED that the domestic abuse injunction 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