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DISTRICT I

November 1, 2022

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

2021AP644

Petitioner v. Syed Imran Mudassar (L.C. # 2020FA4856)

Before Brash, C.J., Donald, P.J., and White, J.

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).

Syed Imran Mudassar appeals the circuit court's order issuing a four-year domestic abuse injunction against him. Mudassar argues that: (1) the circuit court failed to consider the factors set forth in WIS. STAT. § 813.12(4) (2019-20);¹ (2) the burden of proof for domestic abuse injunctions should be clear and convincing evidence; and (3) there were not reasonable grounds to support issuance of the injunction. After reviewing the briefs and record, we conclude at conference that summary disposition is appropriate. *See* WIS. STAT. RULE 809.21. We affirm.

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

On October 20, 2020, the petitioner sought a domestic abuse injunction against Mudassar, who is her husband. On November 3, 2020, a court commissioner issued a four-year domestic abuse injunction. On January 13, 2021, the circuit court affirmed the four-year injunction after a *de novo* hearing.

A domestic abuse injunction may be issued for up to four years if the court “finds 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” includes, among other things, “intentional infliction of physical pain [or] physical injury” or a threat to intentionally inflict physical pain or injury. Sec. 813.12(1)(am). “In determining whether to issue an injunction, the judge ... shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent....” Sec. 813.12(4)(aj).

Mudassar first argues that the circuit court did not create a record indicating that it considered the two factors set forth in WIS. STAT. § 813.12(4)(aj) for issuance of a domestic abuse injunction—the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent. Although the circuit court did not use the specific words “potential danger” and “pattern of abusive conduct,” the court’s decision discusses the potential danger that the petitioner faced and Mudassar’s prior abusive conduct, noting that Mudassar had physically abused the petitioner, threatened to kill her, and engaged in controlling behaviors. We reject Mudassar’s argument that the circuit court did not consider the proper statutory factors.

Mudassar next argues that the burden of proof for domestic abuse injunctions should be clear and convincing evidence. The applicable statute provides that the court may issue a

domestic abuse injunction if there are reasonable grounds to believe that the respondent has engaged in, or may engage in, domestic abuse of the petitioner. WIS. STAT. § 813.12(4)(a)3. “‘Reasonable grounds’ means more likely than not that a specific event has occurred or will occur.” Sec. 813.12(1)(cg). Because the appropriate burden of proof is dictated by statute, we decline Mudassar’s request to establish a higher burden of proof.

Finally, Mudassar argues that there was not a sufficient factual basis to support the circuit court’s ruling that reasonable grounds existed to issue the injunction. Whether there were reasonable grounds to issue the injunction presents a mixed question of fact and law. *See 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.” *Id.* “We independently review the circuit court’s conclusion, based on the established facts, whether such reasonable grounds exist.” *Id.*

The circuit court believed the petitioner’s testimony that Mudassar hit her, forced her to have sex, threatened to kill her, and controlled where she slept and whether she had access to medical care. The circuit court did not believe Mudassar’s testimony to the contrary. The circuit court is the arbiter of witness credibility. *See id.*, ¶28. Based on the facts set forth in the petitioner’s testimony, we conclude that reasonable grounds exist to conclude that Mudassar engaged in or may engage in domestic abuse of the petitioner. *See id.*, ¶23 (whether reasonable

grounds exist based on the facts is a question of law).² There was a sufficient factual basis for issuance of the injunction.

Upon the foregoing,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

Sheila T. Reiff
Clerk of Court of Appeals

² The circuit court stated in its decision that it found “*reasonable grounds to believe* that [the] respondent engaged in or may engage in domestic abuse of the petitioner.” (Emphasis added.) The correct legal standard is whether *reasonable grounds exist* to issue the injunction. Even though the circuit court stated the legal standard incorrectly, this error is not grounds for appellate relief because we have used the correct legal standard when we considered the legal issue *de novo* in this decision.