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DISTRICT IV

June 26, 2025

To:

Hon. Gregory J. Potter
Circuit Court Judge
Electronic Notice

John Holevoet
Electronic Notice

Anita Kellerman

Kimberly Stimac
Clerk of Circuit Court
Wood County Courthouse
Electronic Notice

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

2024AP1430

Anita Kellerman v. Dee A. Flory (L.C. # 2024CV174)

Before Blanchard, Nashold, and Taylor, 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).

Dee Flory appeals an order granting a harassment injunction against her in favor of petitioner Anita Kellerman. Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).¹ We summarily reverse.

Kellerman petitioned for a harassment injunction against Flory. After an evidentiary hearing, the circuit court determined that Flory engaged in the following acts with the intent to

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

harass or intimidate Kellerman and which served no legitimate purpose: (1) reported two incidents involving Flory and Kellerman to the Wood County Sheriff's Department, which was an improper jurisdiction for the reports; (2) reported to the Wood County Sheriff's Department that Kellerman had engaged in drug crimes, contrary to Kellerman's testimony that she had not engaged in any drug activity, which the circuit court deemed credible; (3) reported to the Wood County Sheriff's Department that Kellerman had used her position of employment with the county to evade consequences for legal violations and for personal profit, had possessed alcohol or drugs on county property while performing her work functions, had conflicts of interest, and had illegally filmed Flory, without providing any evidence to support these allegations. The court issued a four-year harassment injunction against Flory.

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. "Harassment," as pertinent to this case, is defined by statute as "[e]ngaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose." *See* WIS. STAT. § 813.125(1)(am)4.b.

Flory argues that Kellerman failed to meet her burden at the injunction hearing to show that Flory committed any acts to harass or intimidate Kellerman and which served no legitimate purpose. *See Welytok v. Ziolkowski*, 2008 WI App 67, ¶23, 312 Wis. 2d 435, 752 N.W.2d 359. Flory contends that the circuit court erred by shifting the burden to Flory to prove that her reports to law enforcement were true, rather than requiring Kellerman to prove that the reports were made with the intent to harass or intimidate Kellerman and served no legitimate purpose. Flory contends that there was no evidence presented that any of her reports to law enforcement were

untrue or intended to harass or intimidate Kellerman, and thus the evidence did not support a harassment injunction.

In her respondent's brief, Kellerman makes no attempt to refute Flory's arguments. Rather, Kellerman simply asserts that Flory's allegations against her lacked merit and were not further investigated, and that Flory made them with the intent to harass Kellerman. However, Kellerman points to no evidence in the record that could support a finding that Flory repeatedly committed acts with the intent to harass or intimidate Kellerman, and Kellerman fails to explain how Flory's conduct constitutes harassment within the meaning of the statute. Because Kellerman's assertions on appeal are merely conclusory and unsupported, we deem her to have conceded Flory's developed, supported argument that the evidence was insufficient to support the injunction.² See *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979) ("Respondents on appeal cannot complain if propositions of appellants are taken as confessed which they do not undertake to refute.").

IT IS ORDERED that the order is summarily reversed under WIS. STAT. RULE 809.21(1).

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

Samuel A. Christensen
Clerk of Court of Appeals

² Flory also argues that the circuit court erred by failing to consider the substance of her motion for a change of venue in the interest of justice. Because we reverse based on what we construe to be Kellerman's effective concession that the evidence at the hearing was insufficient to support the order for an injunction, we do not address Flory's argument as to her motion for a change of venue.