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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1205**

Terry Curtin, et al.,
Appellants,

vs.

RS Eden,
Respondent.

**Filed May 4, 2020
Affirmed
Jesson, Judge**

Hennepin County District Court
File No. 27-CV-19-3889

Roderick Macpherson III, Mid-Minnesota Legal Aid Minnesota Disability Law Center,
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Considered and decided by Bjorkman, Presiding Judge; Jesson, Judge; and
Kirk, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

JESSON, Judge

Appellants Terry Curtin and Rosana Plaza commenced a lawsuit against respondent RS Eden, the owner of Reentry Metro, a halfway house. In the lawsuit, Curtin alleged that she experienced discrimination at the halfway house because she is deaf. Although Curtin and Plaza's attorney served the complaint, he did not file it with the district court by the deadline set forth in Minnesota Rule of Civil Procedure 5.04(a). As a result, the district court dismissed the action. Curtin and Plaza filed a motion to vacate the dismissal. But the district court denied the motion, determining that no reasonable excuse justified the late filing and that the complaint did not establish a debatably meritorious claim. Because the district court did not abuse its discretion by determining that there was not a reasonable excuse for the late filing, we affirm.

FACTS

Appellants Terry Curtin and Rosana Plaza are married. Both women are also deaf. From May 9 through June 29, 2016, Curtin was a resident at Reentry Metro, a residential halfway house owned and operated by respondent RS Eden. Specifically, Reentry Metro houses women who are on probation or supervised release for criminal offenses, and it is a licensed adult community-based residential correctional facility. *See* Minn. R. 2920.0100, subp. 2 (2019). Services provided by Reentry Metro include a structured living environment, alcohol and drug screening, case management, employment assistance, and education groups and classes.

According to Curtin, while she was a resident at Reentry Metro, RS Eden did not provide an American Sign Language (ASL) interpreter to facilitate important conversations, even when she requested one. Additionally, Curtin alleges that although RS Eden provides residents with telephones, it did not provide a video communication system for her to communicate with Plaza and others. And although RS Eden eventually permitted Curtin to use her cell phone to make video calls, Curtin contends that it imposed more stringent rules and restrictions on her ability to make calls than those in place for residents with provided telephones. Curtin's wife Plaza asserts that by failing to provide Curtin with a video communication device, RS Eden harmed her as well.

Based on these actions, Curtin and Plaza commenced a lawsuit against RS Eden, alleging that it violated the Minnesota Human Rights Act.¹ On February 5, 2018, the summons and complaint was served on RS Eden. But Curtin and Plaza's attorney did not file the complaint with the district court at this time.

Over the next several months, the parties discussed discovery deadlines and schedules and began exchanging discovery. As part of this process, Curtin and Plaza's attorney drafted a discovery plan and sent it to opposing counsel. Included in that plan was the deadline for filing the complaint with the district court: February 5, 2019—one year after service of the summons and complaint. See Minn. R. Civ. P. 5.04(a) (describing the one-year deadline to file a lawsuit after service of the summons and complaint).

¹ Curtin and Plaza also filed a similar lawsuit in federal court against the Sherburne County Jail.

But on February 14, 2019, Curtin and Plaza's attorney realized that the deadline to file the complaint in district court had passed. He had not filed the complaint. According to counsel, he forgot to enter the filing deadline on his calendar, and his organization's scheduling system did not alert him of the deadline. Counsel promptly informed Curtin and Plaza about his error, and the two authorized him to continue representing them. On March 11, 2019, counsel filed the complaint with the district court. But because it was not filed before the one-year deadline, the district court dismissed it.

Subsequently, Curtin and Plaza filed a motion to vacate the dismissal of their action under rule 60.02 of the Minnesota Rules of Civil Procedure. All parties agreed that the delay in filing the complaint did not prejudice RS Eden. And they all agreed that Curtin, Plaza, and their counsel acted diligently after receiving notice of the entry of a judgment. The district court found that Curtin and Plaza did not know about the timeline for filing the complaint. But the district court concluded that their attorney knew of the deadline and did not have a reasonable excuse for failing to timely file the complaint. Further, the district court determined that Curtin and Plaza did not have a debatably meritorious claim. In doing so, it agreed with RS Eden's argument that a halfway house is not a public accommodation and therefore is not subject to the Minnesota Human Rights Act. As a result, the district court denied the motion to vacate the dismissal of the complaint. Curtin and Plaza appeal.

D E C I S I O N

Curtin and Plaza challenge the district court's denial of their motion to vacate. A civil action commences when the summons is served on a defendant. Minn. R. Civ.

P. 3.01(a). And rule 5.04(a) of the Minnesota Rules of Civil Procedure provides that, unless the parties stipulate otherwise, any action not filed with the court within one year of commencing the lawsuit “is deemed dismissed with prejudice.”

When a district court dismisses a case based on rule 5.04(a), a party may seek to vacate that dismissal under Minnesota Rule of Civil Procedure 60.02. *Gams v. Houghton*, 884 N.W.2d 611, 617-18 (Minn. 2016). Pursuant to rule 60.02(a), the district court may relieve a party from a final judgment for “mistake, inadvertence, surprise, or excusable neglect.” Whether to grant relief under rule 60.02 is discretionary and “based on all the surrounding facts of each specific case.” *Id.* at 620. Accordingly, we do not reverse a district court’s decision under rule 60.02 absent an abuse of discretion. *Id.*

Before a district court can grant relief under rule 60.02, the moving party must satisfy four factors. *Id.* at 619. Those four factors “are: (1) a debatably meritorious claim; (2) a reasonable excuse for the movant’s failure or neglect to act; (3) the movant acted with due diligence after learning of the error or omission; and (4) no substantial prejudice will result to the other party if relief is granted.” *Id.* at 620 (quotations omitted). The movant must establish *all* four factors to warrant relief. *Cole v. Wutzke*, 884 N.W.2d 634, 637 (Minn. 2016).

Turning to this appeal, the district court found—and both parties agree—that Curtin and Plaza satisfied the third and fourth factors. Accordingly, whether Curtin and Plaza are entitled to relief hinges on the first two factors.

We begin with the second factor. Under that factor, the moving party must demonstrate “a reasonable excuse for the movant’s failure or neglect to act.” *Gams*,

884 N.W.2d at 620 (quotation omitted). Mistakes of law or fact may provide a ground for relief. *Cole*, 884 N.W.2d at 638. And Minnesota caselaw “generally reflects a strong policy favoring the granting of relief when judgment is entered through no fault of the client.” *Id.* (quotation omitted). For instance, even in cases where a district court determined that counsel’s neglect was inexcusable, “if such neglect has been purely that of counsel, ordinarily courts are loath to punish the innocent client for the counsel’s neglect.” *Charson v. Temple Israel*, 419 N.W.2d 488, 491 (Minn.1988).

But not all mistakes warrant relief. *See Cole*, 884 N.W.2d at 638-39. For instance, “mere carelessness or mistake alone is insufficient to provide grounds for Rule 60.02 relief.” *Charson*, 419 N.W.2d at 491. The district court bears the responsibility of determining “whether the excuse offered by the movant is true and reasonable under the circumstances.” *Cole*, 884 N.W.2d at 639. And such inquiry is “fact intensive.” *Id.*

Here, Curtin and Plaza’s attorney did not file the complaint within one year of commencing the lawsuit. According to counsel, he forgot to enter the deadline on his calendar, and his organization’s case-management system did not remind him of the deadline. The district court found that Curtin and Plaza “were not personally aware of the rule [requiring filing within one year] or that their attorneys had not filed the [c]omplaint.” As such, the district court observed that the failure to timely file the complaint was attributable to counsel, not Curtin and Plaza.² But the district court found that counsel

² In a footnote, the district court noted that Curtin and Plaza’s lack of knowledge of the filing deadline was “not entirely credible,” pointing to the parties’ written discovery plan. We do not base our decision on this finding. Our review of the record reveals that it is unclear whether Curtin and Plaza received the written discovery plan. Further, the record

knew of the deadline. Further, the court determined that counsel was not actively pursuing this case. Indeed, as the district court found, Curtin and Plaza’s counsel was pursuing related litigation in federal court, and he waited several months before making initial disclosures in this case. And he requested several discovery extensions. Given counsel’s knowledge of the deadline, the district court concluded that Curtin and Plaza did not have a reasonable excuse for failing to timely file the summons and complaint.

Each of the district court’s factual findings are supported by the record. Despite Curtin and Plaza’s lack of knowledge of the filing deadline, it is clear that their attorney knew when the complaint needed to be filed. And his reason for missing the deadline is also clear: he forgot to enter it in his calendar. Although Minnesota courts have a strong policy of granting relief when a mistake is attributable to an attorney rather than a party, “there are no per se rules of law” requiring a district court to grant relief on the basis of a reasonable excuse. *Cole*, 884 N.W.2d at 639. Stated differently, relief is not automatic. Rather, the district court is tasked with conducting a “fact intensive” inquiry. *Id.* And here, the district court did just that. Based on the facts in the record, the district court determined that Curtin and Plaza did not have a reasonable excuse for the untimely filing of the complaint. Because the record supports the district court’s findings, we cannot say that the district court abused its discretion by denying the motion to vacate. *See Cole*, 884 N.W.2d at 637 (stating that the movant must establish all four factors to warrant relief).³

contains a dispute over their level of comfort reading documents in English, given that both women’s primary language is ASL.

³ Because we conclude that the district court did not abuse its discretion in its reasonable-excuse finding, we do not reach the question of the first factor: whether Curtin

In contesting the district court’s decision regarding reasonable excuse, Curtin and Plaza focus their argument on the policy encouraging courts to forgive mistakes attributable solely to counsel. Curtin and Plaza emphasize that the district court found that they did not know about the filing deadline or their attorney’s failure to timely file the complaint. While we are sympathetic to this argument, we reiterate that caselaw is clear: whether a party established a reasonable excuse is a “fact intensive” inquiry. *Id.* at 639. Although we believe this situation presents a close call, ultimately, the district court is given broad discretion in this area. Even if we may have reached a different result, we cannot say that the district court abused its discretion by finding as it did.

Affirmed.

and Plaza have a debatably meritorious claim. We observe that whether a halfway house is a public accommodation under the Minnesota Human Rights Act appears to be an unanswered question. On one hand, caselaw from this court suggests a test that indicates a halfway house may not be a place of public accommodation. *See Wayne v. Mastershield, Inc.*, 597 N.W.2d 917, 921 (Minn. App. 1999) (identifying a two-factor test: “(1) the selectiveness of the group in the admission of members; and (2) the existence of limits on the size of the membership”), *review denied* (Minn. Oct. 21, 1999). On the other hand, federal guidance on a similar provision of the Americans with Disabilities Act states that, under federal law, halfway houses are public accommodations. *See* 28 C.F.R. pt. 36, app. C (2019) (“The category of social service center establishments would include not only the types of establishments listed . . . but also establishments such as . . . halfway houses.”).