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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1751**

In re the Marriage of:

Ayano Eto Baylor, petitioner,
Respondent,

vs.

Christopher Gary Baylor,
Appellant.

**Filed May 18, 2020
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-FA-18-3158

Elizabeth F. Sauer, Liselotte Schluender, Theresa Ashmead, Central Minnesota Legal
Services, Minneapolis, Minnesota (for respondent)

Christopher Gary Baylor, Springfield, Pennsylvania (pro se appellant)

Considered and decided by Rodenberg, Presiding Judge; Smith, Tracy M., Judge;
and Slieter, Judge.

U N P U B L I S H E D O P I N I O N

SMITH, TRACY M., Judge

Appellant Christopher Gary Baylor appeals the district court's order dissolving his
marriage with respondent Ayano Eto Baylor (Eto) and assigning Eto permanent sole legal
and physical custody of the parties' daughter, A.B.B. Baylor argues that (1) the district

court did not have personal jurisdiction over him, (2) the district court did not have subject-matter jurisdiction, (3) Hennepin County was the wrong venue for the parties' litigation, and (4) his procedural due-process rights were violated. We affirm.

FACTS

Baylor and Eto were married in Burnsville in February 2014. In August 2015, while the parties were living in Florida, A.B.B. was born. The parties later moved to Tennessee and then back to Minnesota in September 2017. In October 2017, the parties separated and Baylor moved to Pennsylvania. Eto and A.B.B. remained in Minnesota. Shortly after the parties' separation, Eto obtained an order for protection (OFP) against Baylor for her and A.B.B. Baylor has made many unsuccessful attempts to challenge this order, including an appeal in which this court affirmed the OFP. *See Baylor v. Baylor*, No. A18-0077, 2018 WL 2187189 (Minn. App. May 14, 2018), *review denied* (Minn. July 17, 2018).

In May 2018, Eto petitioned for dissolution of marriage in Hennepin County. Baylor filed a motion to dismiss, arguing that Minnesota did not have jurisdiction because (1) he previously filed for an annulment of the marriage in Pennsylvania, (2) Minnesota is an inconvenient forum, and (3) Eto practiced unjust conduct. The district court denied Baylor's motion. Baylor appealed the district court's decision, but we dismissed the appeal because it was from a nonappealable interlocutory order.

On April 3, 2019, Baylor filed a second motion to dismiss. Among other things, Baylor argued—for the first time—that the district court did not have personal jurisdiction over him because of invalid service of process. The district court denied Baylor's motion,

concluding that Baylor forfeited his insufficient-service-of-process argument and the court had jurisdiction.

The initial case management conference (ICMC) was on April 8, 2019, but Baylor did not attend despite the district court's attempt to contact him "several times by phone." The pretrial hearing followed on May 6. Baylor filed a notice to appear by telephone and called in to the May 6 conference. Eto's translator, however, informed the district court that he was not able to translate for Eto properly, so the district court rescheduled for May 24. Baylor did not file notice to appear by telephone or call in to the conference on that date.

A bench trial was held on September 26, 2019. Eto and her attorney appeared at trial, but Baylor did not appear in person or file notice to appear by telephone. Baylor tried to call in after the trial started, but the district court did not accept his call because he had not filed a notice to appear by telephone. Both parties were allowed to file ten-page posttrial summations, but only Eto submitted one. On October 24, 2019, the district court entered a judgment that, among other things, dissolved the parties' marriage and gave permanent sole physical and legal custody of A.B.B. to Eto. Baylor appeals.

D E C I S I O N

Baylor is appealing as a pro se litigant. "While an appellant acting pro se is usually accorded some leeway in attempting to comply with court rules, he is still not relieved of the burden of, at least, adequately communicating to the court what it is he wants accomplished and by whom." *Carpenter v. Woodvale, Inc.*, 400 N.W.2d 727, 729 (Minn. 1987). Baylor's four arguments are analyzed in turn.

I. Baylor forfeited his personal-jurisdiction challenge when he filed a rule 12 motion.

Baylor argues that the district court never had personal jurisdiction over him in this matter because he had immunity against service of process while appearing for a mandatory court proceeding, and that is when he was served.

A defense for lack of personal jurisdiction is forfeited if the defendant excludes it from a rule 12 motion or fails to assert the defense in a motion or answer. Minn. R. Civ. P. 12.08(a). Rule 12.07 states, “If a party makes a motion under this rule but omits therefrom any then available defense or objection which this rule permits to be raised by motion, that party shall not thereafter make a motion based on the defense or objection so omitted.” Like lack of personal jurisdiction, insufficient service of process is also a rule 12 objection. Minn. R. Civ. P. 12.02.

Baylor was personally served with Eto’s dissolution petition at the Family Justice Center on May 30, 2018, where he had been ordered to appear in the domestic-abuse matter. On August 14, 2018, Baylor filed a motion to dismiss Eto’s dissolution petition for lack of jurisdiction, inconvenient forum, and improper venue. His jurisdictional argument was based on subject-matter jurisdiction; he did not argue lack of personal jurisdiction or insufficient service of process. Baylor first raised insufficient service of process of the dissolution petition in his second motion to dismiss on April 3, 2019—ten months after being served. The district court denied Baylor’s motion, concluding that the defense was forfeited and that, even if it was timely raised, his argument for service immunity failed. We reach the same conclusion here. Baylor forfeited his right to challenge personal

jurisdiction or insufficient service of process when he failed to raise the issues in his first motion to dismiss.

II. The district court had subject-matter jurisdiction over the parties' marriage dissolution and child-custody matter.

Baylor argues that the district court lacked subject-matter jurisdiction over this case. Subject-matter jurisdiction “is a question of law that [appellate courts] review de novo.” *Nelson v. Schlener*, 859 N.W.2d 288, 291 (Minn. 2015). Baylor’s core argument is that the district court lacks subject-matter jurisdiction because he is a Pennsylvania resident who previously started an annulment action in Pennsylvania.

Minnesota courts have subject-matter jurisdiction over a marriage dissolution if either spouse has resided in Minnesota for at least 180 days immediately preceding commencement of the action. Minn. Stat. § 518.07 (2018). The parties do not dispute that Eto had resided in Minnesota for longer than 180 days before she filed the petition. Minnesota courts also have jurisdiction over child-custody determinations if Minnesota is “the home state of the child” when the proceeding commences. Minn. Stat. § 518D.201(a)(1) (2018). A.B.B. has lived in Minnesota with her mother since September 2017. Therefore, when Eto initiated this proceeding, Minnesota was A.B.B.’s current place of residence and the only state that she had lived in longer than a year. Finally, Baylor initiated two Pennsylvania and two Florida cases that were dismissed for lack of jurisdiction. So, not only does Minnesota have jurisdiction over the claims, but the two other states in which Baylor tried to litigate this matter have affirmatively rejected the idea that they have jurisdiction to address the parties’ disputes.

Baylor makes several arguments based on the premise that the parties' marriage was "invalid." Baylor argues that it can only be viewed as a common-law marriage because the parties' marriage certificate was not signed by two witnesses. *See* Minn. Stat. § 517.10 (2018). Baylor is making this argument for the first time on appeal. Appellate courts do not generally consider matters not argued to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Baylor's argument is forfeited, and we treat the marriage as valid.

Similarly, Baylor argues both that the district court did not have subject-matter jurisdiction because Eto deceived the district court into asserting its jurisdiction over a dissolution suit even though their marriage is "null and void," and that "null and void" is a permissive counterclaim. It appears that Baylor is arguing that their marriage was already properly annulled and would not have been subject to dissolution if not for Eto's alleged deceit. But Baylor has not convincingly shown that this marriage is null and void. Further, in one of the Pennsylvania actions initiated by Baylor, a Pennsylvania court denied Baylor's request for an annulment, finding that both parties got married for the purpose of the relationship and remained together for four years. Baylor has not shown how Eto "lied" to trick the district court or how the district court improperly viewed this matter as a marriage dissolution.

Finally, Baylor argues that the district court did not have subject-matter jurisdiction because Eto violated the doctrine of unclean hands. Baylor cites *Brekke v. THM Biomedical, Inc.* for the premise that the doctrine of equitable estoppel prevents a party with unclean hands from "taking unconscionable advantage of [its] own wrong by asserting

[its] strict legal rights.” 683 N.W.2d 771, 777 (Minn. 2004) (quotation omitted). Baylor does not show how *Brekke* applies to his case. *Brekke* involves an employment contract, and the court analyzed six required elements for equitable estoppel. *See id.* Importantly, to prove equitable estoppel, the plaintiff must show he acted upon his reliance on a representation or concealment and suffered a loss. *Id.* Baylor has not shown how the six elements of equitable estoppel apply to this case. Appellate courts decline to reach issues that are inadequately briefed. *State, Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997); *see also Carpenter*, 400 N.W.2d at 729 (stating that pro se litigants still have the burden of communicating their desired relief to the courts). Baylor has not met his burden in showing that the district court lacked subject-matter jurisdiction over the parties’ marriage dissolution or child-custody dispute.

III. Hennepin County was the proper venue because it is where Eto resides.

Baylor next argues that venue is improper in Hennepin County because it is an inconvenient forum. He also argues that Eto resides in Ramsey County and not Hennepin County.

For a dissolution proceeding, venue is proper in any jurisdiction where one spouse resides. Minn. Stat. § 518.09 (2018). The preferred remedy for improper venue is a change of venue. *Rosnow v. Comm’r of Pub. Safety*, 444 N.W.2d 591, 592 (Minn. App. 1989), *review denied* (Minn. Oct. 13, 1989). “Since our district courts virtually constitute one court of general jurisdiction coextensive with the boundaries of the state, the fact that a civil action is brought or tried in the wrong county is not jurisdictional.” *Claseman v. Feeney*, 300 N.W. 818, 819 (Minn. 1941) (quotation omitted). Baylor never moved for

change of venue but argued improper venue in his second motion to dismiss. “The standard of review on a venue transfer challenge is whether the district court abused its discretion.” *State v. Fairbanks*, 842 N.W.2d 297, 302 (Minn. 2014).

Baylor’s argument that Eto does not live in Hennepin County appears to be based on her listed address and his belief that she must affirmatively prove her residency. Eto’s listed address is a Safe at Home post office box. The Safe at Home program provides victims of domestic violence an address without disclosing their residence. Minn. Stat. § 5B.01 (2018). Though Eto’s Safe at Home address is a P.O. Box in St. Paul, her dissolution petition states that she resides in Hennepin County. The district court declined to “usurp the purpose of the Safe at Home program by ordering [Eto] to provide her exact address,” and Baylor has not shown that decision to be an abuse of discretion. Baylor’s argument that Eto had to affirmatively establish that venue was proper is misplaced. It is Baylor’s burden on appeal to show both how the district court erred in denying his motion to dismiss and that, as a result of that error, he suffered prejudice. *See, e.g., Toughill v. Toughill*, 609 N.W.2d 634, 639 (Minn. App. 2000). Baylor did not meet that burden. Because venue was proper pursuant to Minn. Stat. § 518.09, the district court did not err in denying Baylor’s motion to dismiss.

IV. The district court did not violate Baylor’s due-process rights.

Whether a party’s procedural-due-process rights were violated is a question of law that appellate courts review de novo. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 632 (Minn. 2012).

A. No opportunity to be heard

Baylor's first argument is that his due-process rights were violated when he was not given notice of the April 8, 2019 ICMC. But Eto correctly points out that the district court sent an email to the parties on February 28, 2019, alerting the parties to the April 8 ICMC both in the body of the email and through an attached notice. "Due process requires only that notice be reasonably calculated to reach interested parties." *Goldsworthy v. State Dep't of Pub. Safety*, 268 N.W.2d 46, 48 (Minn. 1978). Baylor previously responded to the email chain—specifically in regards to the proposal of an April 8 conference—which shows that the district court's efforts to notify the parties were reasonably calculated to reach them.

Moreover, Baylor must show how he was prejudiced in order to prevail on appeal. See *Midway Ctr. Assocs. v. Midway Ctr. Inc.*, 237 N.W.2d 76, 78 (Minn. 1975). Baylor brought a motion to dismiss based on lack of jurisdiction on August 15, 2018. He had ample opportunity to be heard and he was heard on the jurisdictional arguments he claims to have missed out on by missing the ICMC.

Baylor also argues that he did not receive proper notice for the rescheduled May 24, 2019 hearing about his second motion to dismiss. But, as Eto points out, Baylor states in his brief that he learned of the rescheduled hearing when he received a May 15, 2019 district court order. Again, the district court provided proper notice, and Baylor has not shown how he was prejudiced.

Finally, Baylor highlights several proceedings in which the district court attempted to reach him by phone even though he did not file a notice to appear by telephone. This, he argues, shows that there was a presumption that he would appear by phone and that his

previous notice to appear by phone should cover the entire case, not just individual hearings. Baylor does not provide any support for this argument. The district court must approve a party's motion to appear by telephone before the party can call into a court hearing. Minn. R. Gen. Prac. 115.09. Baylor has not met his burden of showing how his due-process rights were violated.

B. “Abusing free and pure speech”

Baylor next argues that the district court violated his due process rights when it did not let him call into trial after he did not submit a motion to appear by phone. But, as noted in the previous section, Baylor has not shown how the district court's refusal to let Baylor appear by phone when he did not file a motion to appear violated his due-process rights.

Baylor also argues that the district court's September 27, 2019 order allowing the parties to file written posttrial summations is really just an “abusive sham” used to cover up the injustice of Baylor not being allowed to argue in court. He further argues that the district court's 10-page limit for the closing arguments was too narrow of a restriction in light of Minn. R. Gen. Prac. 115.05, which allows 35 pages for a memorandum in support of a motion. But Baylor does not show why the rule governing motion practice would require the district court to allow longer written closing arguments. Baylor also mentions that the page restriction violated his First Amendment right to free speech. Page limits on court filings are common and not a violation of free speech. See Kathleen M. Sullivan, *The Intersection of Free Speech and the Legal Profession: Constraints on Lawyers' First Amendment Rights*, 67 Fordham L. Rev. 569, 569 (1998) (“Rules of evidence and procedure, bans on revealing grand jury testimony, page limits in briefs, and sanctions for

frivolous pleadings, to name a few, are examples of speech limitations that are widely accepted as functional necessities in the administration of justice”). Baylor has not shown how the page limit violated his freedom of speech, especially given his failure to file a written closing argument at all.

C. “Abusing the option to vacate”

Under the heading “abusing the option to vacate,” Baylor first challenges the district court’s denial of his “informal motion to vacate” the proceedings based on Eto’s alleged fraud and misrepresentations because the denial was “abusively misleading.” In its August 30, 2019 order, the district court stated that the “thrust of [Baylor’s] arguments squarely attack[s] the weight and credibility of [Eto’s] anticipated testimony. Since [Eto]’s credibility will be an important factor at trial, this factor is best assessed by the Court at that trial, instead of prematurely retracting the services of the interpreter.” It appears that the district court made a prudent decision to wait until the trial that was only a few weeks away to make determinations implicating the credibility of witnesses. Baylor does not provide any relevant legal authority to support this argument.

Second, Baylor argues that the district court “abus[ed] the rules” when it denied his motion to extend the length of trial and read his motion as an attempt to remove the interpreter. But Baylor does not say which rule the district court abused. Further, this issue is moot because Baylor did not attend the trial. *See Dean v. City of Winona*, 868 N.W.2d 1, 5 (Minn. 2015) (“An appeal should be dismissed as moot when a decision on the merits is no longer necessary or an award of effective relief is no longer possible.”).

Finally, Baylor argues that the district court abused its discretion when it did not hold a hearing on his “motion to vacate” that followed his July 7, 2019 motion—filed with *this* court—to strike Eto’s July 3, 2019 response to his petition for a writ of mandamus. It is unclear what error Baylor alleges. To the extent he is arguing that he was entitled to present oral testimony on his motion, Baylor does not address whether he made a motion to present oral testimony as required by Minn. R. Gen. Prac. 303.03(d)(2). “[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it.” *Waters v. Fiebelkorn*, 216 Minn. 489, 495, 13 N.W.2d 461, 464-65 (1944). Baylor has not met his burden in showing how the district court erred.

D. “Abuse by continuance”

Baylor appears to argue that Eto and the district court colluded with each other to continually request and grant continuances. He seems to base this argument on the assertion that the court suggested a continuance before Eto requested one. Minn. R. Gen. Prac. 122 suggests that district courts can grant continuances when requests are made by motion or when a judge thinks an emergency exists. Baylor has not met his burden in showing that the district court committed a reversible error.

Baylor also argues that the district court “abruptly prevented [him] from completing his defense and threatened to issue sanctions in order to chill his speech, denying access to the court and the opportunity to be heard.” But there are no transcripts in the record, and Baylor does not provide any other context or way to analyze this argument. “Although some accommodations may be made for pro se litigants, this court has repeatedly

emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules.” *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Baylor has failed to meet his burden on this issue.

Finally, Baylor argues that the district court physically destroyed his motion for reconsideration, which he alleges went missing. Baylor blames the district court based on the suspicious timing of when the district court addressed the missing document. But, as mentioned before, a party needs to show prejudice to prevail on due process claims. *Midway*, 237 N.W.2d at 78. Here, Baylor believes the missing motion prevented him from making his argument for improper service of process. Baylor claims that the missing motion for reconsideration was filed in October 2018. This is still two months after Baylor’s answer and first motion to dismiss. So, Baylor’s argument for improper service of process would have still been forfeited even if the district court had received a copy of his motion for reconsideration. Baylor cannot show prejudice.

In sum, Baylor has not shown how the district court violated his due-process rights.

Affirmed.