

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1903**

In re the Marriage of:
Oliver Wilfred Cass, petitioner,
Respondent,

vs.

YeYing Cen,
Appellant.

**Filed February 1, 2021
Reversed and remanded
Worke, Judge**

Ramsey County District Court
File No. 62-FA-17-2558

Jane Binder, Binder Law Offices, P.A., Minneapolis, Minnesota (for respondent)

Kathryn A. Graves, Jaime Driggs, Henson & Efron, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Smith, Tracy M., Judge; and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

On appeal from a judgment and decree based on an oral stipulation, appellant-wife argues that the district court denied her due process by entering the judgment and decree

without (1) addressing her motion challenging the validity of the stipulation and (2) adhering to Minn. R. Gen. Prac. 307(b). We reverse and remand.

FACTS

In 2017, respondent-husband Oliver Wilfred Cass filed a petition to dissolve his marriage to appellant-wife YeYing Cen. The district court appointed a guardian ad litem (GAL) to wife pursuant to Minn. R. Civ. P. 17.02 to represent wife's best interests, to "advise the [c]ourt" as to what accommodations were needed to assist wife in defending the action, and to assist the court in addressing issues involving spousal maintenance, asset division, and allocation of debt.

Trial occurred over July 23 and 24, 2019. On the second day of trial, the parties reached a stipulated settlement agreement. Wife's attorney described the stipulation on the record. Wife agreed that she would waive spousal maintenance. But as her attorney discussed the terms of the stipulation, wife expressed concern that the stipulation would not leave her with enough money to pay off the mortgage on a house she would be awarded. The GAL spoke with wife off the record. Back on the record, the GAL informed the district court that she showed wife that wife would have sufficient funds to pay off the mortgage, and that wife wanted to enter into the stipulation. But wife then expressed concern that she would not have enough funds to pay property taxes after she paid off the mortgage. Wife's attorney interrupted wife and asked whether wife wanted to enter into the stipulation. Wife confirmed that she wanted to enter into the stipulation.

The district court approved the stipulation. Husband's attorney agreed to draft the proposed judgment and decree based on the oral stipulation and send it to wife's attorney.

On July 26, two days after entering into the stipulation, wife filed a letter directed to the district court expressing dissatisfaction with the stipulation and alleging that her attorneys pressured her into agreeing to it. On July 29, wife filed a second letter addressed to the district court, claiming that she was unable to clearly reject the stipulation on the record because she was suffering from acute gadolinium poisoning at the time of trial.¹ After wife filed these letters, her attorneys withdrew from the case.

On August 1, wife moved the district court to add a provision to the stipulation that would grant her monthly spousal maintenance for several years. In a supporting affidavit, wife claimed that due to her gadolinium poisoning, she “failed to express clearly” that, although she wanted to settle the case, she did not agree to the terms of the stipulation that she ultimately agreed to. A motion hearing was scheduled for October 1.

On August 21, husband submitted a proposed judgment and decree based on the oral stipulation. Wife’s GAL signed the document, agreeing that it accurately reflected the agreement of the parties and that it was in wife’s best interests. Husband did not file a transcript of the oral stipulation pursuant to Minn. R. Gen. Prac. 307(b). Shortly thereafter, the district court rescheduled the motion hearing to November 6. But on October 2, the district court adopted husband’s proposed judgment and decree. On October 3, 2019, the judgment and decree that included the oral stipulation was entered. This appeal follows.

¹ Wife’s attorney informed the district court on the first day of trial that wife was having a “reaction” from gadolinium.

DECISION

Wife argues that the district court denied her the right to due process by entering the judgment and decree.² The United States and Minnesota Constitutions “provide that no person shall be deprived of life, liberty, or property without due process of law.” *Rew v. Bergstrom*, 845 N.W.2d 764, 785 (Minn. 2014) (citing U.S. Const. amend. XIV, § 1; Minn. Const. art. I, § 7). We review whether the district court denied a litigant due process de novo. *Rew*, 845 N.W.2d at 785.

² As an initial matter, we observe that wife’s due-process challenge is arguably not properly before us. “A reviewing court must generally consider only those issues that the record shows were presented and considered by the [district] court in deciding the matter before it.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). “Nor may a party obtain review by raising the same general issue litigated below but under a different theory.” *Id.* Wife never argued to the district court that it denied her due process by entering the judgment and decree under these circumstances. Nor did wife ever assert—before or after the district court entered the judgment and decree—that husband had failed to file a transcript with the proposed judgment and decree as required by rule 307(b).

Nevertheless, we conclude that we may review wife’s due-process argument. Wife raised a general objection to the district court entering judgment based on the oral stipulation by filing a motion challenging the terms of the stipulation and asserting that she failed to clearly reject the stipulation in a supporting affidavit. *See Clark v. Clark*, 642 N.W.2d 459, 464 n.1 (Minn. App. 2002) (observing that party sufficiently raised a challenge under rule 307(b) by filing a letter objecting to entry of the proposed judgment). Moreover, because the district court is required to wait 14 days after both the transcript and the proposed judgment and decree have been filed before adopting the judgment and decree, wife arguably lacked notice that the district court would take action on husband’s proposed judgment and decree. *See id.* at 464 (indicating that 14-day deferment period under rule 307(b) begins when both the proposed judgment and decree and the transcript have been filed). Under these circumstances, we conclude that the interests of justice and fundamental fairness permit us to review wife’s due-process argument. *See Minn. R. Civ. App. P. 103.04* (indicating that an appellate court may review matters “as the interest of justice may require”).

We employ a two-step analysis in reviewing a procedural-due-process claim. *Id.* “First, we identify whether the government has deprived the individual of a protected life, liberty, or property interest.” *Id.* If we answer in the affirmative, “the second step requires us to determine whether the procedures followed by the government were constitutionally sufficient.” *Id.* (quotation omitted). This inquiry “requires a weighing of the particular interests involved in order to determine what process is due.” *Humenansky v. Minn. B. of Med. Exam’rs*, 525 N.W.2d 559, 566 (Minn. App. 1994), *review denied* (Minn. Feb. 14, 1995). “At a minimum the due process clause requires that deprivation of property be preceded by notice and an opportunity for a hearing appropriate to the case.” *Contos v. Herbst*, 278 N.W.2d 732, 742 (Minn. 1979).

Wife argues that the district court denied her due process by entering the judgment and decree (1) before addressing her motion challenging the oral stipulation and (2) despite husband’s failure to file a transcript as required by rule 307(b). We address each argument in turn.

Motion challenging oral stipulation

Wife first contends that the district court denied her due process by depriving her of the opportunity to challenge the stipulation on the grounds identified in her letters and her motion.³

³ Wife’s letters and motion, filed before the district court entered judgment, challenged the stipulation itself, not the district court’s decision to enter judgment based on the stipulation, which had not yet occurred.

Before judgment is entered on an oral stipulation, a party may challenge a proposed judgment in two ways. *Clark*, 642 N.W.2d at 463. “First, the party can seek to withdraw from or vacate the stipulation upon which the proposed judgment is based.” *Id.* (citing *Shirk v. Shirk*, 561 N.W.2d 519, 521-22 (Minn. 1997)). “[A] district court may relieve a party from the terms of a dissolution stipulation if, before entry of a judgment based thereon, it is determined that the stipulation was ‘improvidently made and in equity and good conscience ought not to stand.’” *Toughill v. Toughill*, 609 N.W.2d 634, 639 (Minn. App. 2000) (quoting *Shirk*, 561 N.W.2d at 522). “Stipulations based on fraud or duress and which prejudice the defrauded or coerced party are improvidently made and in equity and good conscience ought not to stand.” *Id.* “Second, the party can attack the proposed judgment, alleging that [it] does not accurately reflect the parties’ stipulation.” *Clark*, 642 N.W.2d at 463 (citing Minn. R. Gen. Prac. 307(b)).

But “when a judgment and decree is entered based upon a stipulation, . . . the stipulation is merged into the judgment and decree and the stipulation cannot thereafter be the target of attack by a party seeking relief from the judgment and decree.” *Shirk*, 561 N.W.2d at 522. Instead, the “sole relief from the judgment and decree lies in meeting the requirements of Minn. Stat. § 518.145, subd. 2.” *Id.* Section 518.145, subdivision 2 (2018), allows the district court to “relieve a party from a judgment and decree” if one of five reasons exists:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under the Rules of Civil Procedure, rule 59.03;

- (3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;
- (4) the judgment and decree or order is void; or
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment and decree or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment and decree or order should have prospective application.

Thus, after the district court enters a judgment and decree based on a stipulation, any challenge to the stipulation not expressly listed in section 518.145, subdivision 2, is not available to a party seeking relief from the stipulation. *See Shirk*, 561 N.W.2d at 522.

Turning to the first step of our due-process analysis, we conclude that the district court, in entering the judgment and decree, deprived wife of a protected interest in two ways—it deprived wife of her interest in the property affected by the judgment and decree, and her liberty interest in presenting her claim from relief from the oral stipulation. Husband argues that the district court did not deprive wife of a protected interest because wife did not take advantage of later opportunities to present her claim. But husband’s argument overlooks the fact that, because the district court entered the judgment and decree, the district court thereafter lacked the discretion to grant wife relief on grounds not specifically identified by Minn. Stat. § 518.145, subd. 2. *See id.* Thus, any opportunity to be heard on those challenges after the district court entered the judgment and decree was meaningless.⁴

⁴ At oral argument, husband asserted that the district court may have had the discretion to grant wife relief from the oral stipulation even after it entered the judgment and decree because wife filed her motion before the district court entered the judgment and decree. He attempts to distinguish *Shirk* because, in *Shirk*, the challenge to the oral stipulation came *after* the district court entered the judgment and decree. *See* 561 N.W.2d at 520-21. We

The second step in evaluating wife’s procedural-due-process claim is to determine whether the district court afforded constitutionally sufficient procedure to wife before depriving her of her protected interest. *See Rew*, 845 N.W.2d at 785. Husband, again, argues that wife failed to take advantage of opportunities to present her motion to the district court. But we are not persuaded. The effect of the district court’s decision to enter the judgment and decree was to preclude wife from seeking relief on grounds not identified by Minn. Stat. § 518.145, subd. 2. Any later effort to attack the oral stipulation, as opposed to the judgment entered on that stipulation, was futile. *See Shirk*, 561 N.W.2d at 522. Thus, the district court did not afford wife the minimum requirement of due process—an “opportunity for a hearing appropriate to the case.” *See Contos*, 278 N.W.2d at 742. We conclude that the district court failed to afford wife due process by entering the judgment and decree without first addressing wife’s pending motion that attacked the oral stipulation.

Minn. R. Gen. Prac. 307(b)

Wife also argues that the district court denied her due process by entering the judgment and decree without requiring husband to file a transcript of the oral stipulation as required by Minn. R. Gen. Prac. 307(b). Rule 307(b) provides:

Where a stipulation has been entered orally upon the record, the lawyer directed to prepare the decree shall submit it to the court with a copy to each party. Unless a written, fully executed stipulation is filed or unless the decree contains the

agree that *Shirk* is factually distinguishable from this case, but disagree with husband’s argument that the distinction is material to wife’s due-process challenge. We cannot ignore the supreme court’s holding that “*when a judgment and decree is entered based upon a stipulation, . . . the stipulation is merged into the judgment and decree and the stipulation cannot thereafter be the target of attack by a party seeking relief from the judgment and decree.*” *Id.* at 522 (emphasis added).

written approval of the other party or their legal representative, a transcript of the oral stipulation shall be filed by the lawyer directed to prepare the decree. . . . Entry of the decree shall be deferred for 14 days to allow for objections unless the decree contains the written approval of the lawyer for each party, or the other party if he or she is self-represented.

We review the interpretation and application of procedural rules de novo. *Clark*, 642 N.W.2d at 464.

Wife argues that the district court failed to adhere to rule 307(b) because she did not give written approval of the proposed judgment and husband did not file a transcript of the oral stipulation. Husband asserts that the transcript requirement did not apply because wife's GAL qualified as her "legal representative," and the GAL's written approval relieved him of the obligation to file a transcript.

We conclude that husband was required to file a transcript of the oral stipulation. Wife's GAL was not her "legal representative," as contemplated by rule 307(b). The district court appointed the GAL to represent "the best interests" of wife and to "assist" and "advise" the district court on accommodating wife and in matters relating to wife's best interests. The district court did not grant the GAL the authority to assent to the proposed judgment and decree on wife's behalf.

We also, consequently, conclude that the district court denied wife due process by entering the judgment and decree without the benefit of a transcript in violation of rule 307(b). Rule 307(b) contemplates that:

- (1) The lawyer who prepares the proposed judgment shall submit it to the court, with copies to each party;
- (2) The same lawyer shall file with the court a transcript of the stipulation;
- (3) *Before entering judgment, the court shall wait 14 days from*

the date the transcript is filed and the proposed judgment is served and filed (and if they are filed separately, from the date the later is filed) to allow for objections; (4) If no objection is received with[in] 14 days, the court is free to enter the proposed judgment as the judgment of the court. If any objections are made, the court is obliged to examine the objections and transcript to decide on the appropriate procedure before entering the decree.

Clark, 642 N.W.2d at 464 (emphasis added). By entering the judgment and decree before husband filed a transcript—and therefore before the 14-day objection period began—the district court eliminated the time period that wife should have had to object to the proposed judgment.⁵

Prejudice

To be entitled to relief on appeal on a due-process claim, the appellant must also demonstrate that she suffered prejudice from the due-process violation. *In re Welfare of Child of B.J.-M.*, 744 N.W.2d 669, 673 (Minn. 2008). We conclude that wife has sufficiently demonstrated prejudice.

First, by entering the judgment and decree before addressing wife’s motion, the district court deprived wife of a meaningful opportunity to be heard on her challenge to the oral stipulation.

Second, wife identifies terms in the judgment and decree that were not discussed when the parties placed the oral stipulation on the record. Specifically, the judgment and decree awards each party the household goods, furniture, and furnishings in their

⁵ We also observe that by entering the judgment and decree before the 14-day objection period began, the district court failed to afford wife sufficient notice that it would act on the proposed judgment.

possession. It includes a provision that the parties discharge each other from claims arising out of the marriage relationship. And it provides that a party who prevails in seeking enforcement of the judgment and decree is entitled to attorney fees in connection with the enforcement action. These terms were not expressly placed on the record. At a minimum, the district court's failure to adhere to rule 307(b) deprived wife of notice that she must bring her objections to the proposed judgment and decree within the 14-day objection period. The fact that the judgment and decree contains terms that were outside the scope of the oral stipulation is sufficient to demonstrate prejudice.⁶

Because the district court denied wife due process by entering the judgment and decree under these circumstances, and because wife has demonstrated that she was prejudiced by the district court's action, we reverse the entry of the judgment and decree. We remand to the district court to allow wife an opportunity to be heard on her motion attacking the validity of the oral stipulation.

Reversed and remanded.

⁶ Husband asserted at oral argument that these terms were merely "boilerplate" terms that would be included in any stipulated settlement agreement. But regardless of whether the terms are boilerplate, they were not discussed when the parties placed the stipulation on the record.