

*This opinion is nonprecedential except as provided by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
A20-1222**

Yao Yamtse,
Respondent,

vs.

Farm Bureau Property & Casualty Insurance Company,
Appellant.

**Filed April 26, 2021
Affirmed; motions denied
Connolly, Judge**

Ramsey County District Court
File No. 62-CV-20-445

Bradley A. Kirscher, Kirscher Law Firm, PA, Roseville, Minnesota (for respondent)

Richard S. Stempel, Luke G. Peters, Stempel & Associates, PLC, Excelsior, Minnesota
(for appellant)

Considered and decided by Connolly, Presiding Judge; Segal, Chief Judge; and
Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the district court's award of costs and disbursements to respondent, arguing that the district court abused its discretion because (1) the underlying motion to confirm the no-fault arbitration award was premature, unnecessary, and moot;

and (2) the award under Minn. Stat. § 549.02 (2020) is contrary to Minn. Stat. § 572B.25 (2020). We affirm. Respondent's motions to strike portions of appellant's brief and for sanctions are denied.

FACTS

In December 2019, respondent Yao Yamtse and appellant Farm Bureau Property & Casualty Insurance Company participated in a mandatory binding arbitration to resolve their dispute over no-fault insurance benefits, pursuant to Minn. Stat. § 65B.525, subd. 1 (2018). The arbitrator awarded respondent \$10,347.31. Within 30 days, respondent sent appellant an email asking when the payment would be made. Appellant did not immediately reply to the email. As a result, respondent filed a motion to confirm the arbitration award in district court.

In February 2020, following a hearing, the district court confirmed the arbitration award and ordered judgment against the appellant for the unpaid part of the amount, \$144.59, "plus costs and disbursements to be added to the judgment upon application by the [respondent]." ¹ Subsequently, respondent filed a notice and application for taxation of costs and disbursements: statutory costs of \$205.50, court filing fees of \$305, motion fees of \$80; costs of service of \$17.40; and a parking fee of \$4.65 for the confirmation hearing. Over appellant's objection, the district court administrator determined that all of respondent's claimed costs, with the exception of the parking fee, were reasonable, and allowed respondent total costs and disbursements of \$607.90.

¹ Appellant had paid part of the amount prior to the hearing.

In March 2020, appellant challenged the district court administrator's determination that respondent's costs and disbursements were reasonable. In June 2020, the district court issued an order denying the appeal of costs and disbursements, stating that "[j]udgment shall be entered against [appellant] and in favor of [respondent] for reasonable costs and disbursements in the amount of \$607.90."

In September 2020, an appeal was filed with this court. Because the appeal was untimely in part, this court issued an order dismissing portions of the appeal and limiting its scope to a review of the district court's June 2020 order denying appellant's challenge to the court administrator's award of costs and disbursements and the judgment entered upon that order. Because appellant's brief contains arguments referring to actions outside the scope of this appeal, respondent filed a motion to strike and also a motion for sanctions.

DECISION

"We generally review a district court's award of costs and disbursements for an abuse of discretion. Whether the district court erred in its interpretation of the statute authorizing the award of costs and disbursements to [respondent], however, is a legal question that we review de novo." *Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 155 (Minn. 2014) (citation omitted).

"A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or rendering a decision that is against logic and the facts on record." *Knapp v. Knapp*, 883 N.W.2d 833, 835 (Minn. App. 2016) (quotation omitted).

Here, appellant argues that the district court abused its discretion by awarding respondent costs and disbursements incurred in the district-court proceeding held to confirm the arbitration award. Appellant maintains that the underlying motion to confirm the award was unnecessary, premature, and moot because the remaining payments were made shortly after the hearing. Appellant does not provide any legal basis for this argument.

Appellant also argues that, by confirming the award, the district court is making appellant “pay for the costs of a no-fault claimant’s superfluous motion” and that “it can be inferred that the District Court held that no-fault insurers must pay an additional amount. . . for each and every no-fault claimant who chooses to file a motion to confirm, no matter how unnecessary the motion may be.” Appellant makes further conclusory statements based on the district court’s decision to confirm the costs and disbursements. *See, e.g.*, “The District Court’s holdings run contrary to [the no-fault arbitration system’s] purpose by incentivizing claimants to seek unnecessary confirmation of an award.”

Even if this court agreed with appellant’s view that respondent did not need to bring a motion to confirm the award, respondent did not violate the law by doing so. Minnesota law provides that “[a]fter a party to an arbitration proceeding receives notice of an award, the party may file a motion with the court for an order confirming the award.” Minn. Stat. § 572B.22 (2020). And any decision made thereafter regarding costs and disbursements was well within the district court’s discretion. *See Dukowitz*, 841 N.W.2d at 155. The disbursements awarded were the fees paid and the costs of litigation, all of which were necessary to obtain confirmation of the arbitration award. Appellant does not identify any

basis for the argument that either the award or its confirmation was contrary to “logic” or the “facts on the record.” *See Knapp*, 883 N.W.2d at 835. As such, the district court did not abuse its discretion by confirming the award of costs and disbursements.

Appellant makes a separate argument that the “award of statutory costs is contrary to [Minn. Stat.] § 572B and [is] an abuse of discretion.” The same argument was raised in the appeal of the court administrator’s determination of taxable costs and disbursements. The district court analyzed this claim in its order denying the appeal of costs and disbursements. Appellant briefly makes this challenge in the present appeal, without providing any support but reiterating the district court’s statement and adding, “For the reasons discussed above, the District Court’s award of costs was an unreasonable abuse of discretion and should be reversed, even as to the statutory costs.”

The district court correctly found that there is no conflict between Minn. Stat. § 572B.25 and Minn. Stat. § 549.02. “The interpretation of a statute is a question of law that we review de novo.” *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016); *see also Swenson v. Nickaboine*, 793 N.W.2d 738, 741 (Minn. 2011). Where the language of two statutes appears to be in conflict, Minnesota’s rules of statutory construction require the court to harmonize both of the apparently conflicting provisions where possible, “so that effect may be given to both.” Minn. Stat. §§ 645.26, 645.17 (2020).

The district court correctly stated that “it is entirely possible to give full effect and allow costs to [respondent] under both statutes without one inhibiting the purpose of the other.” In addition to the costs allowed under Minn. Stat. § 572B.25, Minn. Stat. § 549.02 provides a basis for allowing costs “[i]n actions commenced in the district court.”

Respondent initiated the action by filing and serving a summons and complaint, in addition to the motion to confirm. The district court held a hearing on the motion and ruled in favor of respondent. Accordingly, respondent was entitled to reasonable statutory costs under Minn. Stat. § 549.02.

While the language of Minn. Stat. § 549.02 is mandatory (requiring an award), and Minn. Stat. § 572B.25 is permissive (giving the district court discretion to award), both statutes limit the award to “reasonable” costs and disbursements. The district court found the amounts to be reasonable, and the district court’s disallowance of reimbursement for a parking fee is evidence of the district court exercising its sound discretion.

Therefore, appellant’s argument that the district court abused its discretion by making an award under Minn. Stat. § 549.02 contrary to Minn. Stat. § 572B.25 fails.

Motions to Strike and for Sanctions

Respondent challenges portions of appellant’s brief as unsupported by the record and beyond the scope of this appeal, having been previously addressed in this court’s October 12, 2020, order. Respondent’s motion is denied as moot because the court has not relied on the contested statements in appellant’s brief for any of the analysis on appeal. *Drewitz v. Motorwerks, Inc.*, 728 N.W.2d 231, 233 n.2 (Minn. 2007) (denying motion to strike as moot when court did not rely on challenged materials).

Respondent also filed a motion seeking sanctions under Minn. Stat. § 549.211 (2020) on the grounds that the appeal was made for an “improper purpose” and part of the appeal was untimely. Respondent is correct that appellant appealed a judgment which was untimely as part of its timely appeal. But appellant voluntarily dismissed the challenged

part of the appeal after we filed an order questioning the timeliness of that aspect of the appeal. The voluntary dismissal preceded briefing in this appeal. In view of the early, voluntary dismissal, we are not persuaded that the appeal was filed in bad faith or that sanctions are appropriate.

Affirmed; motions denied.