

*This opinion is nonprecedential except as provided by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
A23-1505**

In the Matter of:

Mary Jo Schuttloffel, petitioner,
Appellant,

vs.

Eric Matthew Janke,
Respondent.

**Filed July 8, 2024
Reversed and remanded
Cochran, Judge**

Anoka County District Court
File No. 02-FA-23-1108

Eric Richard, Brooklyn Center, Minnesota (for appellant)

Eric Matthew Janke, Cedar, Minnesota (pro se respondent)

Considered and decided by Cochran, Presiding Judge; Wheelock, Judge; and Ede,
Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

On appeal from the district court's denial of her petition for an order for protection, appellant argues that the district court erred when it determined that it lacked jurisdiction over her petition. Appellant further argues that the district court abused its discretion by determining that appellant failed to prove her allegations of domestic abuse by a

preponderance of the evidence. We first conclude that the district court erred when it decided that it lacked jurisdiction to consider the petition. We next conclude that the district court discussed but did not decide whether appellant proved her allegations of domestic abuse. We therefore reverse and remand for the district court to determine whether appellant proved her allegations of domestic abuse and is entitled to an order for protection.

FACTS

Appellant Mary Jo Schuttloffel petitioned the Anoka County District Court for an order for protection (OFP) against respondent Eric Matthew Janke. In her petition, Schuttloffel alleged that she had been in a romantic relationship with Janke and had lived with him since 1991. Schuttloffel alleged numerous instances of physical abuse and threats of violence by Janke. The district court issued an emergency ex parte OFP based on the allegations in Schuttloffel's petition.

Schuttloffel's OFP petition listed Janke's address as being in the city of East Bethel. A form prepared by Schuttloffel and provided to the Anoka County Sheriff's Department for purposes of serving Janke showed that Janke's East Bethel address was located in Anoka County. The sheriff's department served the emergency ex parte OFP, and the certificate of service indicates that Janke was served at his Anoka County address. On the same day he was served, Janke requested a hearing.

Both Schuttloffel and Janke appeared at the hearing. Schuttloffel was represented by an attorney, but Janke was not. Schuttloffel testified, describing many of the allegations specified in her petition. Janke testified and "denied the main scope" of Schuttloffel's

allegations. Janke also asserted that there were no photos, police reports, medical reports, or any other evidence supporting Schuttloffel's allegations.

After the parties testified, the district court considered whether to dismiss the petition. The district court first noted that the burden of proof was on Schuttloffel and acknowledged "[Janke's] concern when he said it's basically [Schuttloffel's] word against his." "But an even bigger issue" for the district court was that "jurisdiction wasn't established." The district court noted that an OFP "can be brought where the incident occurred or where either party resides." The district court told the parties that Schuttloffel did not establish that any of the incidents occurred in Anoka County and therefore it would "have to dismiss the case." Schuttloffel responded that there are "no jurisdictional requirements for orders for protection" and that the petition established that Janke resided in Anoka County. The district court decided that it could not "consider the petition as evidence" and told the parties that it would dismiss the case. The district court did not directly respond to Schuttloffel's argument regarding jurisdictional requirements.

Following the hearing, the district court filed a written order dismissing the petition and vacating the emergency ex parte OFP. The district court used a form order, on which it checked a box indicating "Other" as the basis for the dismissal. It did not include any findings of fact or other explanation. Notably, the district court did *not* check another box on the form—the box indicating that Schuttloffel failed to prove her allegations.

Schuttloffel appeals.

DECISION

Schuttloffel challenges the district court’s determination that it lacked jurisdiction to hear her petition. Schuttloffel also argues that the district court abused its discretion by determining that she failed to prove her allegations of domestic abuse by a preponderance of the evidence. We address Schuttloffel’s arguments in turn.

I. The district court abused its discretion by dismissing the petition for jurisdictional reasons.

Schuttloffel first argues that the district court had jurisdiction over this matter because the OFP petition established that Janke lived in Anoka County and Janke did not challenge jurisdiction at the hearing. We initially note that there are multiple types of jurisdiction—subject matter jurisdiction, personal jurisdiction, in rem jurisdiction, etc. In a jurisdictional dispute, specifying the type of jurisdiction that is at issue is critical because different analyses are used to address whether different types of jurisdiction are present. Here, however, the type of jurisdiction allegedly missing was never specifically identified. It appears, however, that the type of jurisdiction at issue is subject-matter jurisdiction. Therefore, we begin by clarifying what it means for a district court to have subject-matter jurisdiction to hear a case and then address the specific argument before us.

“Subject-matter jurisdiction is the court’s authority to hear the type of dispute at issue and to grant the type of relief sought.” *Seehus v. Bor-Son. Constr., Inc.*, 783 N.W.2d 144, 147 (Minn. 2010). We review whether a court has subject-matter jurisdiction de novo. *Minn. Dep’t of Corr. v. Knutson*, 976 N.W.2d 711, 715 (Minn. 2022).

We conclude that the district court erred as a matter of law when it determined that it did not have subject-matter jurisdiction to consider the OFP petition. District courts have “original jurisdiction in all civil and criminal cases.” Minn. Const. art. VI, § 3. A petition for an OFP initiates a civil action. *See* Minn. Stat. § 518B.01, subd. 4 (2022); *Isenhowe v. Isenhowe*, 993 N.W.2d 91, 95 (Minn. App. 2023) (“OFPs are a civil remedy . . .”). And a district court may grant relief in an OFP proceeding. Minn. Stat. § 518B.01, subd. 6 (2022). In other words, a district court has the authority to hear an OFP petition and grant relief in such a proceeding. The district court therefore had subject-matter jurisdiction over Schuttloffel’s OFP petition. *See Seehus*, 783 N.W.2d at 147.

Nonetheless, the district court here determined that it lacked jurisdiction because Schuttloffel failed to establish that any of the alleged abuse occurred within Anoka County or that either party resided in Anoka County. In reaching this decision, the district court appears to have analyzed venue under the guise of subject-matter jurisdiction.¹ Venue is “the proper or a possible place for a lawsuit to proceed.” *Black’s Law Dictionary* 1876 (12th ed. 2024). Unlike subject-matter jurisdiction, venue is not jurisdictional. *Peterson v. Holiday Recreational Indus., Inc.*, 726 N.W.2d 499, 504 (Minn. App. 2007), *rev. denied* (Minn. Feb. 28, 2007); *see also Claseman v. Feeney*, 300 N.W.2d 818, 819 (Minn.

¹ We note that courts and parties sometimes have used language and concepts associated with jurisdiction imprecisely to refer to nonjurisdictional claims processing rules or nonjurisdictional limits on a court’s authority, and that this imprecision is problematic. *See, e.g., Johnson v. Princeton Pub. Utils. Comm’n*, 899 N.W.2d 860, 868 n.3 (Minn. App. 2017) (discussing these problems and citing cases); *In re Bd. of Managers of Bois de Sioux Watershed Dist.*, 818 N.W.2d 583, 586 n.2 (Minn. App. 2012) (same); *Moore v. Moore*, 734 N.W.2d 285, 287 n.1 (Minn. App. 2007) (same), *rev. denied* (Minn. Sept. 18, 2007).

1941) (“[T]he fact that a civil action is brought or tried in the wrong county is not jurisdictional.” (quotation omitted)).

The district court appears to have relied on the following provision of the Minnesota Domestic Abuse Act, Minnesota Statutes section 518B.01 (2022):

Subd. 3. Court jurisdiction. An application for relief under this section may be filed in the court having jurisdiction over dissolution actions, *in the county of residence of either party*, in the county in which a pending or completed family court proceeding involving the parties or their minor children was brought, or *in the county in which the alleged domestic abuse occurred*.

Minn. Stat. § 518B.01, subd. 3 (emphasis added). While the headnote references jurisdiction, statutory headnotes “are mere catchwords to indicate the contents of the section or subdivision *and are not part of the statute*.” Minn. Stat. § 645.49 (2022) (emphasis added). Therefore, when interpreting a statute, we focus on the language after the headnote, not the headnote itself. With regard to the provision at issue, its language relates to venue and not jurisdiction. The provision does not implicate subject-matter jurisdiction—i.e., the district court’s authority to hear an OFP or grant relief in such a proceeding. *Seehus*, 783 N.W.2d at 147. Instead, it defines where venue is proper in an OFP proceeding, providing that “[a]n application for relief . . . may be filed” in a variety of district courts including “in the county of residence of either party, . . . or in the county in which the alleged domestic abuse occurred.” Minn. Stat. § 518B.01, subd. 3. We therefore conclude that section 518B.01, subdivision 3, lacks any language imposing a jurisdictional requirement and is instead a venue directive.

Our conclusion is supported by the supreme court's holding in *In re Kowalke's Guardianship*, 46 N.W.2d 275, 282 (Minn. 1950). In *Kowalke*, the Lyon County juvenile court found that two children were being willfully neglected by their parents. 46 N.W.2d at 278. The children were placed into care in Hennepin and Martin Counties during the following years. *Id.* While the children were living in Martin County, the Lyon County probate court appointed a special guardian of the children. *Id.* The respondent then petitioned for general guardianship of the children. *Id.* In response, the children's family petitioned the court to appoint the children's uncle as guardian. *Id.* The Lyon County probate court granted guardianship to the respondent. *Id.* The family appealed to the district court, which affirmed, and then appealed to the supreme court. *Id.*

On appeal, the family argued that the Lyon County probate court lacked jurisdiction over the children because the children lived in Martin County during the guardianship proceedings. *Id.* at 278. The family relied on a statute which read, "The court may appoint one or two persons . . . as guardians of . . . any person who is a minor, provided such person is a resident of the county." *Id.* at 278-79 (citing Minn. Stat. § 525.54 (repealed 2003)). The supreme court observed that the probate court enjoyed general jurisdiction in guardianship proceedings: "[T]he main facts upon which jurisdiction depends is the existence of a child in need of a guardian who is at the time a resident of the state." *Id.* at 283. But, according to the supreme court, "the question of which county is the appropriate place to commence guardianship proceedings is purely a question of venue." *Id.* Thus, the supreme court determined that the statute imposed a nonjurisdictional venue requirement. *Id.* at 284-85.

Like the statute at issue in *Kowalke*, section 518B.01, subdivision 3, addresses “the question of which county is the appropriate place to commence” an OFP proceeding, and therefore imposes a nonjurisdictional venue directive. *Id.* at 283. We conclude that the district court’s dismissal for lack of jurisdiction was in fact a dismissal for improper venue. Thus, the real question before us is whether the district court abused its discretion when it dismissed Schuttloffel’s petition based on improper venue.

This court has observed that it “is not common for a district court to raise sua sponte the issue of venue.” *Est. of King*, 992 N.W.2d 410, 419 (Minn. App. 2023). Still, a district court “may sua sponte raise a dispositive issue to determine the appropriate process of the case.” *Id.* We review a district court’s sua sponte dismissal for improper venue under the abuse-of-discretion standard. *See id.* at 417-19.

In *King*, the district court sua sponte raised the issue of improper venue. *Id.* at 414. In that case, the appellant, who was a creditor of the decedent, initiated an intestacy proceeding in Hennepin County District Court. *Id.* Venue for initial estate proceedings after a decedent’s death is proper in “the county of the decedent’s domicile at the time of death” or “in any county where property of the decedent was located at the time of death.” *Id.* at 417 (quoting Minn. Stat. § 524.3-201(a) (2022)). The appellant alleged that the decedent, who died in the state of Georgia, owned property in Hennepin and Anoka counties at the time of his death. *Id.* at 414. After notice and a hearing, the district court determined that the appellant failed to establish that the decedent owned any property in Minnesota at the time of his death and dismissed the petition without prejudice based on improper venue. *Id.*

On appeal, “[w]e acknowledge[d] that, unlike jurisdictional defects that mandate dismissal, improper venue is often resolved through a motion for change of venue instead of dismissal for lack of jurisdiction.” *Id.* at 419. But, based on the unique facts presented, we determined that “once the district court found that decedent had no property anywhere in Minnesota, there [was] no proper venue within the state to transfer the case, leaving the district court no option but to dismiss the case.” *Id.* In addition, we discussed the district court’s decision to raise the issue sua sponte. We observed that “in order to raise an issue sua sponte, the district court must afford the adverse party a meaningful opportunity to oppose such an action.” *Id.* (quotation omitted). Because the parties were given 35-days’ notice of the venue hearing, we concluded that the appellant had a “meaningful opportunity” to oppose dismissal. *Id.* Accordingly, we concluded that the district court did not abuse its discretion by sua sponte raising the issue of venue and dismissing the case for improper venue. *Id.*

In this case, by contrast, the district court did not provide Schuttloffel a “meaningful opportunity” to oppose dismissal and, regardless, the record before the district court was sufficient to establish proper venue in Anoka County. Here, the district court raised the venue issue for the first time at the conclusion of the OFP hearing. At that point, Schuttloffel attempted to establish venue via Janke’s address listed on the petition. The district court then ruled that it could not consider the petition because the petition was not introduced as evidence. But Schuttloffel was given no opportunity to introduce the petition into evidence after the district court questioned “jurisdiction.” Nor did the district court afford Schuttloffel any other opportunity to introduce other evidence to establish venue

once the district court sua sponte raised the issue. While we recognize that OFP hearings are conducted on an expedited timeline,² the district court should have afforded Schuttloffel a meaningful opportunity to oppose dismissal on the basis of venue but failed to do so.

Further, we conclude that the district court also abused its discretion when it declined to consider the petition as evidence in determining whether Anoka County was a proper venue. We recently addressed a similar issue in a nonprecedential opinion. *Berestov v. Berestov*, No. A23-0775, 2024 WL 765056, at *3 (Minn. App. Feb. 26, 2024), *rev. denied* (Minn. May 29, 2024).³ In that case, we observed that the Minnesota Domestic Abuse Act authorizes a district court to grant an OFP based only on the petition and supporting affidavits without holding a hearing in some situations, which “implies that the petition and affidavit are part of the evidentiary record before the district court.” *Id.* We agree with this analysis in *Berestov*. Accordingly, the district court should have considered the information in Schuttloffel’s petition when determining whether venue was proper.

Here, it is apparent from the record that venue was proper in Anoka County. Schuttloffel’s petition, the service documents, and Janke’s petition for a hearing each list

² When a district court grants an ex parte OFP and the respondent requests a hearing, “the hearing shall be held within ten days of the [district] court’s receipt of the respondent’s request.” Minn. Stat. § 518B.01, subd. 5(d). If either party shows good cause for a continuance and the district court finds a continuance is appropriate, the hearing may be continued for no more than five days, unless otherwise agreed upon by the parties. *Id.*, subd. 5(e).

³ This nonprecedential opinion is cited for its persuasive value only. Minn. R. Civ. App. P. 136.01(c).

Janke's Anoka County address. And Janke has never claimed that he does not live in Anoka County.⁴ Because the record establishes that Janke, one of the parties to this OFP proceeding, lives in Anoka County, we conclude that the Anoka County District Court is a proper venue for Schuttloffel's OFP petition. Minn. Stat. § 518B.01, subd. 3.⁵ For these reasons, we conclude that the district court abused its discretion when it concluded that Schuttloffel failed to establish proper venue for this matter.

Based on all the information before the district court, its sua sponte dismissal of the petition was an abuse of discretion. Anoka County is a proper venue for Schuttloffel's petition under section 518B.01, subdivision 3. Thus, we reverse the district court's order dismissing the petition and vacating the emergency ex parte OFP.

II. The district court did not determine whether Schuttloffel proved her allegations of domestic abuse.

Schuttloffel also asserts that "it was an abuse of discretion for the district court to find that the allegations of domestic abuse were not proven by a preponderance of the evidence." A petition for an OFP "shall allege the existence of domestic abuse." Minn. Stat. § 518B.01, subd. 4. Domestic abuse is defined as any of the following acts "committed against a family or household member by a family or household

⁴ Defective venue can be waived by failing to object. *Kowalke*, 46 N.W.2d at 284. Here, Janke petitioned the Anoka County district court for a hearing on the OFP, appeared for that hearing, did not raise the improper venue issue, and does not argue improper venue on appeal. Thus, even if Anoka County was an improper venue, Janke waived the issue by not raising it.

⁵ We also note that there is no requirement within the Minnesota Domestic Abuse Act that a petitioner establish venue at an OFP hearing if venue is not challenged. *See generally* Minn. Stat. § 518B.01.

member”: “physical harm, bodily injury, or assault”; “the infliction of fear of imminent physical harm, bodily injury, or assault”; or terroristic threats, criminal sexual conduct, sexual extortion, or interference with an emergency call. Minn. Stat. § 518B.01, subd. 2(a). To obtain an OFP, a petitioner must prove their allegations of domestic abuse by a preponderance of the evidence. *Oberg v. Bradley*, 868 N.W.2d 62, 64 (Minn. App. 2015).

Based on the transcript and the district court’s written order, we conclude that the district court did not determine whether Schuttloffel proved her allegations of domestic abuse by a preponderance of the evidence. At the hearing, the district court brought up the burden of proof, noting that the burden is on the petitioner and adding that the case boiled down to Schuttloffel’s word against Janke’s. But then the district court stated that the “bigger issue . . . was that jurisdiction wasn’t established.” As a result, the district court did not reach a conclusion at the hearing about whether Schuttloffel met her burden of proof. The district court’s written order also reflects that the district court did not determine the merits of Schuttloffel’s allegations when it dismissed the petition. On the one-page OFP form order, there were several boxes that the district court could check to indicate its findings and conclusions following the hearing. One box on the order specified, “The allegations of the Petitioner were not proved.” The district court did *not* check that box, meaning it did not make a determination in that regard. Instead, the district court checked the box labeled, “Other,” and then ordered that the petition was dismissed without further written explanation.

In sum, we conclude that the district court erroneously dismissed the petition for lack of venue. We further conclude that the district court did not determine whether

Schuttloffel met her burden of proof to support the issuance of an OFP. We therefore reverse and remand for the district court to determine whether Schuttloffel proved her allegations of domestic abuse by a preponderance of the evidence.

Reversed and remanded.