

*This opinion is nonprecedential except as provided by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
A23-1750**

In re the Marriage of:

Amber Otte McMillan, petitioner,
Respondent,

vs.

Abram Lennox Eli McMillan,
Appellant.

**Filed September 16, 2024
Affirmed
Ross, Judge**

Carver County District Court
File No. 10-FA-22-3

Amber Otte McMillan, Chanhassen, Minnesota (self-represented respondent)

Abram Lennox Eli McMillan, Nevada, Iowa (self-represented appellant)

Considered and decided by Ross, Presiding Judge; Ede, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Abram McMillan appeals from the district court’s judgment and decree dissolving the parties’ marriage and determining child custody. He argues that the district court should have both taken judicial notice of the fact that he and the parties’ children are “nationals but not citizens of the United States” based on affidavits he submitted and declined to exercise jurisdiction because of the assortment of caselaw holdings, regulations, statutes,

and maxims he presented. We conclude that his cited authority is wholly irrelevant to the issue he presents and that his arguments consist of unintelligible assertions and constitute baseless challenges to jurisdiction. And because he waived any personal-jurisdiction defense by answering the dissolution petition without challenging jurisdiction, the district court properly exercised personal jurisdiction over him and his children.

DECISION

After Amber McMillan petitioned to dissolve her marriage to Abram McMillan in January 2022, Abram filed an answer in May 2022 without objecting to the district court's exercise of personal jurisdiction over him.

Four months later, Abram submitted a document captioned, "Affidavit of Citizenship Evidence With Ex[h]ibits," signed by himself and stating, "I . . . hereby declare my intention to be a national . . . but not a citizen of the United States" He simultaneously submitted two similar affidavits on behalf of the parties' daughters. Based on the affidavits, which referenced unrelated federal regulations and caselaw, Abram challenged the district court's exercise of jurisdiction over the proceeding and over Abram and the children.

The district court continued to exercise jurisdiction, concluding that, by answering the petition without objection, Abram waived any personal-jurisdiction challenge. In doing so, the district court observed similarities between Abram's arguments and the meritless arguments commonly raised by so-called "sovereign citizen[s]." The district court dissolved the marriage, awarding sole physical custody of the children to Amber, subject

to parenting time if Abram secures permanent housing, and joint legal custody if Abram completes parenting classes.

In this appeal from the judgment and decree, Abram challenges the district court's exercise of personal jurisdiction based on his claim, "My daughters and I are nationals but not citizens of the United States." A defendant in a civil action must raise the defense of lack of personal jurisdiction in his responsive pleading to the petition or in a motion filed in lieu of a responsive pleading, Minn. R. Civ. P. 12.02, and failure to do so constitutes a waiver of the defense, Minn. R. Civ. P. 12.08(a). Because Abram did not challenge the district court's exercise of personal jurisdiction in his answer, he waived the defense.

Abram argues that the district court was nevertheless required to take "judicial notice" of the "evidence" of his (and his daughters') alleged noncitizen status supposedly proved by his declarative affidavits. Judicial notice allows a court to consider a matter not in the record before that court. *See In re Reissuance of an NPDES/SDS Permit to U.S. Steel Corp.*, 954 N.W.2d 572, 581 n.8 (Minn. 2021). Because the affidavits Abram submitted are part of this record, judicial notice does not apply. But even if we ignore the inapplicability of judicial notice, Abram's argument about judicial notice lacks merit. In a civil case, the district court may be required to take judicial notice of a fact that "is either . . . generally known within the territorial jurisdiction of the trial court or . . . capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Minn. R. Evid. 201(b). Because Abram's affidavits satisfy neither qualification, even if judicial notice applied here, the district court would have appropriately refused to take judicial notice of them.

We add that the affidavits, which declare Abram’s intention that he and each of his daughters become “a national but not a citizen of the United States” (and on which he claims not to be subject to the district court’s exercise of personal jurisdiction), are apparently groundless. Abram borrows the language of his affidavit declaration from a 1976 joint resolution of the 94th Congress, which approved “the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America” as codified in 48 U.S.C. § 1801 (1976). The historical document resolved to confer United States citizenship on every living Mariana Islander automatically upon the ratification of the resolution by the governing body of the Islands but permitted any adult among them to choose instead not to remain a United States citizen by swearing the following oath in court within six months after the resolution’s effective date (which turned out to be ten years after congress issued the resolution): “I . . . , being duly sworn, hereby declare my intention to be a national but not a citizen of the United States.” *Id.* Assuming Abram was born in the Northern Mariana Islands—a fact his affidavit does not allege—he cannot now avail himself of the right to become a national but not a citizen of the United States because he’s too late, as he had only six months after the resolution became effective to submit to do so. And regarding his two minor children, again assuming they were born in the Islands, the provision also does not apply to them because the resolution established that those born in the Islands after the resolution’s effective date would become “citizens of the United States at birth” but, unlike for those already living there, provided no mechanism to later change that citizenship status by affidavit. *Id.*

Equally dispositive, even if Abram could have changed his citizenship status by an affidavit declaring himself to be a noncitizen national, that change would have no bearing on the district court's personal jurisdiction over him for the dissolution proceeding or the custody determination. This is because the district court's personal jurisdiction over Abram did not depend on his being a United States citizen. With no citizenship requirement, the operative statute authorizes a district court to grant a marriage dissolution as long as "one of the parties has resided in this state . . . for not less than 180 days immediately preceding the commencement of the proceeding" or as long as "one of the parties has been a domiciliary of this state for not less than 180 days immediately preceding commencement of the proceeding." Minn. Stat. § 518.07, subd. 1 (2022). Nor would Abram's noncitizen status undo his prior waiver of a personal-jurisdiction defense by having failed to challenge jurisdiction in his responsive pleading.

Abram argues too that the district court exhibited unfair bias against him by speculating that he was proffering essentially the same sovereign-citizen argument contesting the district court's jurisdiction that courts have consistently discredited as absurd. But the district court acknowledged that Abram had not expressly characterized himself as a "sovereign citizen." In other cases, district court judges have struggled to decipher what might fairly be considered the bad-faith, incomprehensible cobbling together of random constitutional, statutory, and caselaw references having no discernable bearing on the jurisdictional proposition asserted. These have commonly come in the form of "sovereign citizen" arguments and assertions. And the context here informs us that the district court had merely recognized some of the common characteristics between those

now-familiar and uniformly rejected sovereign-citizen jurisdictional claims and Abram’s confusing jurisdictional argument. We conclude that the district court correctly rejected Abram’s jurisdictional argument because, as a matter of procedure, Abram waived any personal-jurisdiction defense and, as a matter of law, the argument is confusing and legally unfounded.

We emphasize that the argument is a haphazard mix of legal concepts that Abram did not cogently present and that we cannot logically summarize. We caution that repeating the argument in future litigation might, therefore, trigger proceedings for sanctions under the Minnesota General Rules of Practice. The operative rule authorizes the court to penalize a party for engaging in frivolous litigation, and it defines a “[f]rivolous litigant” as, among other things, “[a] person who, after a claim has been finally determined against the person, . . . attempts to relitigate . . . any of the issues of fact or law determined or concluded by the final determination against the same party.” Minn. R. Gen. Prac. 9.06(b). We have considered Abram’s argument and reviewed his repetitively cited sources. None of the maxims, idea fragments, or authority presented on appeal, including the following examples, can possibly support a legitimate challenge to the district court’s exercise of personal jurisdiction: *Urtetiqui v. D’Arcy*, 34 U.S. 692 (1835); “evidence of the fact of delivery of . . . affidavits to the U.S. Secretary of State”; “14th Amendment citizenship”; “a traveler’s path”; the Constitution’s Contract Clause; “plac[ement] . . . into a condition of involuntary servitude”; *United States v. Throckmorton*, 98 U.S. 61 (1878); 8 U.S.C. § 1502; affidavits of noncitizenship; *Black’s Law Dictionary* 1057 (6th ed. 1990) (defining non-resident alien); *Downes v. Bidwell*, 182 U.S. 244 (1901); Thirteenth Amendment’s

abolition of slavery; *United States v. Valentine*, 288 F. Supp. 957 (D.P.R. 1968); 8 U.S.C. § 1401; Minn. Stat. § 645.44, subd. 11 (2022); *United States v. Wong Kim Ark*, 169 U.S. 649 (1898); 8 U.S.C. § 1101; *Barron ex rel. Tiernan v. City of Baltimore*, 32 U.S. 243 (1833).

For these reasons we affirm the district court's order dissolving the marriage and determining custody of the parties' children.

Affirmed.