

*This opinion is nonprecedential except as provided by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
A23-1859**

In the Matter of:

Shamane Kimara March, and OBO minor children, petitioner,
Respondent,

vs.

William Frank Schmalstieg,
Appellant.

**Filed December 30, 2024
Affirmed
Ede, Judge**

Ramsey County District Court
File No. 62-DA-FA-23-223

Hennepin County District Court
File No. 27-DA-FA-22-181

Ann Morrice Allenson, Allenson Family Law, P.A., Minneapolis, Minnesota (for respondent)

John T. Burns, Jr., Burns Law Office, Burnsville, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

EDE, Judge

Appellant father challenges a district court's two-year extension of an order for protection (OFP) in favor of respondent mother and the couple's children, asserting that her application failed to meet the statutory requirements of the Domestic Abuse Act.

Because we discern no error in the district court's application of the law and its order granting an extension, we affirm.

FACTS

Appellant-father William Frank Schmalstieg and respondent-mother Shamane Kimara March share three minor children. In January 2022, March petitioned for an OFP on behalf of herself and the children, alleging that Schmalstieg was physically and verbally abusive toward them. The district court granted an ex parte OFP on behalf of March and the children. The parties later stipulated to the filing of an OFP without findings. The district court issued the stipulated OFP in March 2022, with expiration in February 2023.

In January 2023, before the OFP was scheduled to expire, March applied to extend the OFP based on allegations that she was reasonably in fear of physical harm from Schmalstieg. The district court denied March's extension application without a hearing. After her request for an extension was denied, March contacted the Hennepin County Domestic Abuse Office (HCDAO) for advice on how to proceed. At the end of January 2023, March filed a new application for an extension, asserting that Schmalstieg had engaged in acts of harassment or stalking that caused her fear of physical harm. The district court granted that new application and extended the OFP for another two years.

After receiving notice of the order, Schmalstieg requested a hearing and moved to dismiss March's second application. The district court denied his dismissal motion and transferred the matter to Ramsey County District Court, where the parties' marital

dissolution action was proceeding.¹ The Ramsey County District Court held an evidentiary hearing on March's application to extend the OFP. Both Schmalstieg and March testified. During the hearing, Schmalstieg again moved to dismiss the application for alleged procedural irregularities. He argued that the application was defective because it was signed by a court advocate rather than March. He also claimed that the application did not comply with certain statutory requirements because it did not include a sworn affidavit. The district court denied Schmalstieg's motion to dismiss, determining that: (1) March's electronic signature on the application was proper; and (2) the statute did not require her to file an affidavit with her extension request.

In October 2023, the district court granted March's application to extend the OFP. The district court found that March "credibly testified about previous instances of domestic abuse that she and the minor children have experienced," causing March and the children to "reasonably fear physical harm" from Schmalstieg. And the district court concluded, based on its review of the entire record, that March had met her burden of proof on her request to extend the OFP for another two years.

Schmalstieg appeals.

DECISION

On appeal, Schmalstieg does not raise a substantive challenge to the district court's determination that sufficient evidence of domestic abuse supported an extension of the

¹ March's original petition was filed in Hennepin County District Court under court file number 27-DA-FA-22-181. The OFP matter was transferred to Ramsey County District Court and opened under court file number 62-DA-FA-23-223.

existing OFP. Instead, he advances a procedural argument urging us to reverse the district court's order on the ground that March's application did not comply with the statutory requirements of the Domestic Abuse Act, Minnesota Statutes section 518B.01 (2022) (the Act). We are not persuaded.

Schmalstieg's challenge presents a question of statutory interpretation, which appellate courts review de novo. *Schmidt ex rel. P.M.S. v. Coons*, 818 N.W.2d 523, 526 (Minn. 2012) (noting that construing the Act is an exercise of statutory interpretation). The goal of statutory interpretation is to "ascertain and effectuate the intention of the legislature." *Christianson v. Henke*, 831 N.W.2d 532, 536 (Minn. 2013) (quotations omitted). In discerning the legislature's intent, the "plain language of the statute is [the] best guide." *Rodriguez v. State Farm Mut. Auto. Ins. Co.*, 931 N.W.2d 632, 634 (Minn. 2019). When the meaning of a statute is unambiguous, the plain language controls. *State v. Boecker*, 893 N.W.2d 348, 351 (Minn. 2017).

Under the Act, an individual may petition the district court for an OFP based on domestic abuse. Minn. Stat. § 518B.01, subd. 4. When a petitioner "alleges an immediate and present danger of domestic abuse," the district court may grant an ex parte OFP and other relief. *Id.*, subd. 7(a). If a complaining party is only seeking relief under subdivision 7(a), the district court need not hold a hearing "unless the court declines to order the requested relief or the respondent requests a hearing." *Id.*, subd. 6a(a). In general, an OFP may be in force for no more than two years. *Id.*, subd. 6(b). If a petitioner has already obtained an OFP, the district court "may extend the relief granted in an existing order for

protection,” *id.*, subd. 6a(a), “upon a showing that . . . the petitioner is reasonably in fear of physical harm from the respondent,” *id.*, subd. 6a(b)(2).

Relying on these provisions, Schmalstieg argues that March’s application for an extension of the OFP under subdivision 6a(b) should have included a sworn affidavit. Schmalstieg asserts that the statute does not specify how petitioners can meet their burden under this test. But he argues that “it is not possible that the legislature intended to permit unsworn assertions by third persons.” Schmalstieg therefore requests that we reverse the district court’s decision and conclude that March did not make a showing sufficient to support her extension request because she did not submit a sworn affidavit with her application.

But the plain language of subdivision 6a(b) does not obligate a party seeking an extension of an OFP to file an affidavit. That requirement instead exists for the original petition for an OFP under Minnesota Statutes section 518B.01, subdivision 4, which provides that an initial OFP petition “shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.” *Id.*, subd. 4(b). Subdivision 6a, which addresses OFP extensions, requires only an application, notice to the parties, and a hearing—not a sworn affidavit. *Id.*, subd. 6a.

Schmalstieg contends that we should read the Act as a whole and determine that the affidavit requirement is not limited to the original petition for an OFP but rather applies coextensively to subsequent applications to extend an OFP. *See Schmidt*, 818 N.W.2d at 527 (advising courts not to examine different provisions of a statute in isolation). This

argument is unavailing. If the legislature sought to require an affidavit to accompany applications to extend an OFP—as it did for initial OFP petitions—it could have done so. That the legislature did not do so requires that we conclude the omission was intended. *See Chrz v. Mower Cnty.*, 986 N.W.2d 481, 486 (Minn. 2023) (noting that canons of statutory interpretation presume that “any omissions in a statute are intentional” (quotation omitted)). Moreover, a reviewing court will not read requirements into a statute where none exist. *See Rohmiller v. Hart*, 811 N.W.2d 585, 590 (Minn. 2012) (stating that an appellate court will not “add words or meaning to a statute that were intentionally or inadvertently omitted”). Because the legislature did not include an affidavit requirement in subdivision 6a(b), we presume that it did not intend to impose such a requirement.²

Subdivision 6a(b) requires only that the petitioner establish grounds sufficient to extend the OFP. It does not require that the applicant include that showing in the application itself. Instead, the statute allows petitioners to prove they are reasonably in fear of physical harm at the evidentiary hearing, as occurred here. March testified about why she requested an OFP extension. She stated that Schmalstieg had not sought help to resolve outstanding

² Schmalstieg also maintains that March’s application violated Rule 3.02 of the Minnesota General Rules of Practice, which requires that, “[b]efore an ex parte order is issued, an affidavit shall be submitted with the application.” *See also* Minn. R. Gen. Prac. 301.01 (noting that the general rules of practice and rules of civil procedure apply to domestic abuse proceedings). Even assuming without deciding that the lack of an affidavit accompanying March’s application violated rule 3.02, we conclude that such error is harmless because the district court ultimately received evidence supporting the application during the evidentiary hearing and the court extended the OFP on the basis of the record as a whole. *See* Minn. R. Civ. P. 61 (“The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.”).

issues, that he refused to get reevaluated for chemical dependency, that he screamed at her on the phone, and that he made her “scared to be in the same room as him.” March noted that she had read her application since it was submitted to the district court. She confirmed that the application was a true and accurate reflection of what she told the HCDAO when they helped her prepare and file that document. Based on March’s testimony, coupled with the record as a whole, the district court ruled that March had sufficiently proven that she was entitled to an extension of the OFP. We discern no error in that determination.³

Lastly, we conclude that the district court’s decision is consistent with the purpose of the Act, which is “to provide speedy, effective relief to victims of domestic abuse.” *Burkstrand v. Burkstrand*, 632 N.W.2d 206, 213 (Minn. 2001); *see also State v. Errington*, 310 N.W.2d 681, 682 (Minn. 1981) (describing the Act as a “remedy for victims of abuse”). To read a requirement into the statute that a petitioner seeking an extension of an OFP must submit an affidavit would conflict with the plain language of the statute and would undermine the Act’s purpose. For these reasons, we discern no error in the district court’s

³ Schmalstieg further contends that March’s application was inadequate because she did not personally submit or sign the application, and she relied on staff at the HCDAO, who submitted it on her behalf. We disagree. As explained above, an application for an initial OFP requires a signed affidavit. *See* Minn. Stat. § 518B.01, subd. 4(b). But a request for an extension does not. *See id.*, subd. 6a.

interpretation of the statute and conclude that the plain language does not require a party seeking an extension of an OFP to file an affidavit.⁴

Affirmed.

⁴ Schmalstieg originally argued in his appellate briefing that March's second application to extend the OFP was barred by the doctrine of res judicata because the district court's denial of her first application operated as a final judgment on the merits. *See Brown-Wilbert Inc. v. Copeland Buhl & Co., P.L.L.P.*, 732 N.W.2d 209, 220 (Minn. 2007) (articulating the elements of res judicata, including that "there was a final judgment on the merits" (quotation omitted)). At oral argument, however, Schmalstieg's counsel conceded that res judicata does not apply because March's first application did not result in a final judgment on the merits. We agree. And we note that the Act does not prohibit a person from submitting a second application to extend an OFP after a first extension application has been denied. *See* Minn. Stat. § 518B.01, subd. 6a.