

*This opinion is nonprecedential except as provided by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
A24-0238**

Sandra Kay Brown,
Respondent,

vs.

Erik James Klein,
Appellant.

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

Isanti County District Court
File No. 30-CV-23-796

Steven R. Little, SRL Law, PLLC, St. Paul, Minnesota (for respondent)

Anders J. Erickson, Johnson Erickson Criminal Defense, Minneapolis, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Cochran, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

A district court referee granted Sandra Brown a harassment restraining order against her neighbor, Erik Klein. A district court judge countersigned the referee's order. Klein argues on appeal that the district court judge violated the controlling statute by prematurely countersigning the referee's order, preventing him from obtaining district-judge review of

it. Because Klein never asked the district court judge to review the referee's order, he forfeited his right to argue on appeal that he was denied the right to do so. We also conclude, alternatively, that his argument is substantively unpersuasive. We affirm on both grounds.

FACTS

Sandra Brown and Erik Klein live at adjacent residential properties and engaged in a series of property and interpersonal disputes. In December 2023, Brown petitioned the district court to obtain a two-year harassment restraining order (HRO) against Klein based on Klein's alleged threats, property damage, theft, making false reports to police, and trespasses. The district court promptly issued an *ex parte* HRO and scheduled an evidentiary hearing for January 4, 2024. A district court referee held the scheduled hearing and, the following day, issued an HRO restraining Klein from harassing Brown, contacting Brown, disposing of items on Brown's property, or crossing the parties' shared property line until December 2025. Three days after the referee issued the HRO, on January 8, a district court judge countersigned it. And the following day, on January 9, Klein filled out a form captioned, "Request for Hearing (Minn. Stat. § 609.748)." The document stated that Klein had been personally served the papers in the matter on January 8 and specifically "request[ed] the Court to hold a hearing in the above-entitled action. I understand that any harassment restraining order issued by the Court shall remain in full force and effect until the date of the hearing." The parties suggest on appeal that he called the district court clerk three days later seeking information. But the record does not establish that this is so. The record indicates that neither the district court nor either party took any further action until

Klein filed his notice of appeal to this court on February 12, 2024, stating that he was appealing the district court's order issued on January 5, 2024.

Klein appeals.

DECISION

Klein argues that the district court deprived him of his statutory and alleged constitutional right to obtain a district court judge's review of the referee's order. He bases this argument on the fact that the judge countersigned the referee's order before the end of the statutory ten-day period during which a party may notify the district court of his request for district-judge review. We first address whether Klein forfeited this argument by failing to seek the allegedly deprived review. We then address whether his argument has merit had he not forfeited it.

I

We question whether Klein's argument that the district court deprived him of his statutory right to obtain a district court judge's review of the referee's order is properly before us on appeal. We generally consider "only those issues that the record shows were presented [to] and considered by the trial court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). Issues not raised in the district court are generally considered forfeited. *Steward v. State*, 950 N.W.2d 750, 756 (Minn. 2020). For the following reasons, we believe that Klein has forfeited the argument.

The referee statute affords parties the opportunity to seek a district court judge's review of a referee's recommendation or order. This review is triggered "by notice served and filed within ten days of effective notice of the recommended order or finding." Minn.

Stat. § 484.70, subd. 7(d) (2022). Klein did not at any time file a notice of review of the referee's decision under the statute. Klein essentially asks us to hold that the district court denied him the right to seek review of a referee determination for which Klein sought no district court review. Klein offers no persuasive legal justification why we must overlook the *Thiele* rule and decide the unpreserved issue that was neither presented to nor considered by the district court. We know of none.

Klein offers alternatively that we should treat his request for a hearing under the HRO statute, Minnesota Statutes section 609.748 (2022 & Supp. 2023), as a notice for district-judge review under Minnesota Statutes section 484.70 (2022). The district court did not treat his hearing request that way, and neither did Brown. Requests for referee review must specify the reason for review and indicate the provisions being disputed. Minn. Stat. § 484.70, subd. 7(d). Klein's request for a hearing did not mention that he was challenging the referee's order generally or identify any specific provision of the order that he wanted the district court judge to reject. The district court therefore properly chose not to treat his hearing request as a notice seeking district-judge review of the referee's order.

We are not persuaded otherwise by Klein's urging that, because he was self-represented when he filed the hearing request, we should excuse his failure to request review and address his argument on the merits. We generally hold self-represented parties to the same standards as attorneys. *Bedner v. Bedner*, 946 N.W.2d 921, 927 (Minn. App. 2020). The procedural rules remain the same for all parties, represented by counsel or not. *Ronay v. Ronay*, 369 N.W.2d 12, 14 (Minn. App. 1985). Klein's emphasis on his self-

represented status therefore does not change our conclusion. Because he failed to raise his statutory argument to the district court, he forfeited the argument on appeal.

II

We add that Klein's statutory argument also fails on the merits. We interpret the meaning of a statute *de novo*. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). Our *de novo* review leads us to reject Klein's argument.

Klein asserts that he improperly lost his statutory right to request district-judge review of the referee's order because the district court countersigned it within three days, well before Klein's ten-day period to request review had ended. He cites no provision of the referee statute that directly supports this assertion. And the statute's plain words defeat it. It is true that the statute provides that the recommended findings and orders of a referee "become the findings and orders of the court when confirmed by a judge." Minn. Stat. § 484.70, subd. 7(c). But it also says that a referee's recommendations "become an effective order when countersigned by a judge *and remain effective during the pendency of a review*." *Id.*, subd. 7(e) (emphasis added). The only "review" referenced in the statute is the district court judge's review. Contrary to Klein's theory that a party's right to district-judge review evaporates once the district court judge countersigns a referee's recommendation, subdivision 7(e) necessarily implies that this countersigning does not prevent review. That a countersigned referee's order remains effective while the district court judge reviews it means that review can occur after the countersigning. We hold that Klein's right to seek review of the referee's HRO continued throughout the ten-day period, unrestricted by the district court's confirmatory countersignature.

Klein relatedly contends that the timing of the district court judge's countersignature violated his constitutional right to judicial review. Because this contention rests on his theory that he was denied judicial review and we have already determined that he was not denied review, we need not address his constitutional contention further.

Our review of Klein's appeal has incidentally reminded us that Minnesota Statutes section 484.70 (the referee statute) and section 609.748 (the HRO statute) appear to inconsistently indicate when a referee's HRO recommendation becomes effective. Under section 484.70, referee recommendations become effective "when countersigned by a judge." *Id.* But under section 609.748, HRO recommendations become effective "upon the referee's signature." Minn. Stat. § 609.748, subd. 5(b)(3); *see also id.*, subd. 4(b) ("When signed by a referee, the temporary order becomes effective upon the referee's signature."). We assume that the more specific statute, section 609.748, determines the timing of an HRO's effective date. *See Connexus Energy v. Comm'r of Revenue*, 868 N.W.2d 234, 242 (Minn. 2015) (observing that "specific [statutory] terms covering the given subject matter will prevail over general language of the same or another statute which might otherwise prove controlling" (quotation omitted)). But we have no need to resolve the discrepancy here because whether the referee's HRO became effective on January 5 (the day the referee signed it) or January 8 (the day the district judge signed it) has no bearing on our decision today. This is because, either way, Klein had the same ten days after "effective notice of the recommended order" to file his notice of review. Minn. Stat. § 484.70, subd. 7(d). And Klein never made a request for review. The district court therefore never had an opportunity to determine whether it had the authority to review a judge-signed referee recommendation.

The issue was not properly before the district court and is not properly before us. We will not reverse the district court's decision to grant the HRO.

Affirmed.