

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1715**

In the Matter of:

Amy Lynn Iverson, petitioner,
Appellant,

vs.

Deven Allen Vanhouse,
Respondent.

**Filed December 30, 2024
Appeal dismissed
Segal, Chief Judge**

Lake County District Court
File No. 38-FA-24-143

Tyson Smith, Richard T. Furlong III, Smith Law, PLLC, Grand Marais, Minnesota (for appellant)

Timothy A. Costley, Costley & Morris, P.C., Two Harbors, Minnesota (for respondent)

Considered and decided by Segal, Chief Judge; Reyes, Judge; and Larson, Judge.

SYLLABUS

A motion for amended findings of fact in a domestic-abuse proceeding pursuant to Minn. Stat. § 518B.01 (2022) is a proper motion under Minn. R. Civ. App. P. 104.01, subd. 2, that, if timely, tolls the time to appeal the order or judgment that is the subject of such motion.

SPECIAL TERM OPINION

SEGAL, Chief Judge

Appellant filed this appeal, seeking review of the district court's order vacating an interim order for protection. This court questioned whether appellant's pending postdecision motion for amended findings of fact was a proper and timely postdecision tolling motion under Minn. R. Civ. App. P. 104.01, subd. 2, and if so, whether this appeal must be dismissed as premature. Appellant filed an informal memorandum. No memorandum was received from respondent. We issued an order on November 26, 2024, dismissing the appeal as premature to be followed by this precedential special term opinion to explain our reasoning.

DECISION

In April 2024, appellant Amy Lynn Iverson filed a petition for an order for protection (OFP) pursuant to Minn. Stat. § 518B.01 against respondent Deven Allen Vanhouse, her former husband. Following an evidentiary hearing, the district court issued an interim OFP, which it later vacated in an order filed September 4, 2024 (the September 4 order). Iverson served and filed a motion for amended findings of fact in district court on October 3, 2024. While that motion was pending in district court, Iverson filed a notice of appeal with this court on October 31, 2024, challenging the September 4 order.

Rule 104.01, subdivision 2, of the Minnesota Rules of Civil Appellate Procedure provides for tolling of the time for appeal upon the service and filing of “a proper and timely motion” of a specified type:

Unless otherwise provided by law, if any party serves and files a proper and timely motion of [a] type specified [in the rule], the time for appeal of the order or judgment that is the subject of such motion runs for all parties from the service by any party of notice of filing of the order disposing of the last such motion outstanding.

Minn. R. Civ. App. P. 104.01, subd. 2.

A postdecision motion is a “proper” tolling motion under Minn. R. Civ. App. P. 104.01, subd. 2, if it satisfies two requirements. *See Madson v. Minn. Mining & Mfg. Co.*, 612 N.W.2d 168, 171-72 (Minn. 2000). First, the postdecision motion must be filed “in compliance with the Rules of Civil Procedure.” *Id.* at 171. Second, the postdecision motion “must also be ‘authorized.’” *Id.* at 172. To be “authorized” means that the motion, on its face, “is expressly allowed under subdivision 2” of rule 104.01. *Id.*; *see also Stern 1011 First St. S., LLC v. Gere*, 979 N.W.2d 216, 220-24 (Minn. 2022) (quoting *Madson*, 612 N.W.2d at 172). Subdivision 2 of the rule contains a list of six types of motions that qualify as tolling motions, if timely filed. Minn. R. Civ. App. P. 104.01, subd. 2(a)-(f). The list includes a motion “to amend or make findings of fact under Minn. R. Civ. P. 52.02.” *Id.*, subd. 2(b).

Iverson argues that her October 3 motion is a proper postdecision tolling motion because a motion for amended findings is one of the motion types specified in rule 104.01, subdivision 2. She maintains that her notice of appeal should therefore be dismissed without prejudice as premature, which would allow the district court to rule on her postdecision motion before appeal.

Iverson notes, however, that there is “uncertainty as to whether post-trial motions brought following the evidentiary hearing in special proceedings,” such as a domestic-abuse proceeding, “toll the appeal deadline when they do not follow an actual trial [and] are thus [arguably] noncompliant with the rules of civil procedure.” This uncertainty stems from a 1993 precedential opinion of this court, which held that a “motion for a new trial or amended findings does not extend the time to appeal a final order granting or denying a domestic abuse petition.” *Steeves v. Campbell*, 508 N.W.2d 817, 818 (Minn. App. 1993). But that opinion was based on an earlier version of rule 104 that has since been amended. *Id.* at 818 n.1.

In 1998, the Minnesota Supreme Court amended several provisions of rule 104. *See* Minn. R. Civ. App. P. 104.01 1998 advisory comm. cmt.; *State by Fort Snelling State Park Ass’n v. Minneapolis Park & Recreation Bd.*, 673 N.W.2d 169, 178 n.1 (Minn. App. 2003), *rev. denied* (Minn. Mar. 16, 2004). The pre-1998 rule did not provide for tolling of the time to appeal even though a postdecision motion to modify the judgment had been filed and was pending when the notice of appeal was filed. The current provision, set out in rule 104.01, subdivision 2, provides that a proper and timely postdecision motion, of one of the six types specified in subdivision 2, will toll the time to appeal. *See Madson*, 612 N.W.2d at 171; *Stern*, 979 N.W.2d at 220-24. In light of the 1998 amendments, and the supreme court’s interpretation of those amendments in *Madson* and *Stern*, we conclude that the portion of the holding in *Steeves* that postdecision motions do not extend the time

to appeal a final order granting or denying a domestic-abuse petition is no longer good law.¹

We now apply the current rule to determine whether Iverson’s postdecision motion qualifies as a proper and timely tolling motion under the rule. When discussing whether a postdecision tolling motion satisfies the first requirement of the *Madson* test—that the motion complies with the rules of civil procedure—the supreme court has focused on whether the motion states the grounds for the motion with particularity, sets forth the relief sought with any required supporting documents, has been served and filed “with the appropriate signatures in place,” and contains a caption, notice of motion, notice of hearing, case-type designation, and numbered paragraphs. *Stern*, 979 N.W.2d at 222 n.5; *see also Madson*, 612 N.W.2d at 171-72. Iverson’s October 3, 2024 postdecision motion satisfies these requirements and thus complies with the rules of civil procedure.

Under the second requirement of the test—that the motion is an authorized motion under rule 104.01, subdivision 2—the supreme court has stressed that we are to look no further than the face of the document. The supreme court explained that this bright-line test “provides the court and all of the parties to the litigation with the clarity that the 1998 amendments were trying to achieve.” *Madson*, 612 N.W.2d at 172; *see also Stern*, 979 N.W.2d at 223 (holding that this court erred in looking to the form and function of a motion in determining whether a postdecision motion was a proper tolling motion instead of

¹ This conclusion is consistent with nonprecedential special term orders we have issued in at least two prior cases involving domestic-abuse proceedings under chapter 518B. *See Sun v. Yang*, No. A21-0177 (Minn. App. Mar. 2, 2021); *Aune v. Aune*, No. A15-0094 (Minn. App. Feb. 18, 2015).

looking only to the face of the motion). Iverson’s October 3, 2024 motion is titled “Motion for Amended Findings and Conclusions.” Because motions for amended findings are expressly allowed under the rule, Iverson’s motion is thus authorized and we conclude that the motion is a proper postdecision tolling motion.²

The final consideration is whether Iverson’s postdecision motion is a timely motion. A motion for amended findings must be served within the 30-day time frame governing motions for a new trial. Minn. R. Civ. P. 52.02, 59.03. The district court administrator’s register of actions indicates that Vanhouse’s counsel served notice of filing of the September 4, 2024 order the very next day, on September 5. The time to file a motion for amended findings thus expired on October 7, 2024. *See* Minn. R. Civ. P. 52.02, 59.03, 6.01(a)(1)(C) (extending time period to the next business day when the last day of the period falls on a Saturday, Sunday, or legal holiday). Because Iverson filed the postdecision motion on October 3, 2024, it is timely.

A notice of appeal filed before the disposition of a postdecision tolling motion listed in Minn. R. Civ. App. P. 104.01, subd. 2, is “premature and of no effect,” and does not divest the district court of jurisdiction to dispose of the motion. Minn. R. Civ. App. P. 104.01, subd. 3. “A new notice of appeal must be filed within the time prescribed to appeal the underlying order or judgment, measured from the service of notice of filing of the order disposing of the outstanding motion.” *Id.*

² While we conclude that Iverson’s postdecision motion in this case is a proper postdecision motion for tolling of the time to appeal under rule 104.01, subdivision 2, we express no opinion whether a motion for amended findings is an appropriate vehicle for seeking relief in a domestic-abuse proceeding under chapter 518B.

Iverson's October 3, 2024 postdecision motion is a proper and timely postdecision tolling motion under rule 104.01, subdivision 2. Because this appeal was filed before the district court ruled on Iverson's postdecision tolling motion, we must dismiss this appeal as premature under rule 104.01, subdivision 3.³

Appeal dismissed.

³ As stated in our November 26, 2024 order in this matter, Iverson may obtain review of the September 4, 2024 order in a timely appeal after the district court rules on her October 3, 2024 postdecision tolling motion, and her filing fee for such appeal is waived.