

*This opinion is nonprecedential except as provided by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
A24-1835**

In re the Estate of Irvin John Cooper, Sr., Deceased.

**Filed September 2, 2025
Affirmed
Florey, Judge*
Concurring specially, Schmidt, Judge**

Ramsey County District Court
File No. 62-PR-23-154

Eric B. Bjerva, Tia Erickson, Chestnut Cambronne PA, Minneapolis, Minnesota (for appellant Angela Forsman)

James Garlough, The Garlough Law Firm, PLLC, Bloomington, Minnesota (for personal representative Brian Cooper)

Kathy Cooper, Columbia Heights, Minnesota (pro se respondent)

Considered and decided by Connolly, Presiding Judge; Schmidt, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

On appeal from the district court's order denying appellant's request to invalidate the marriage between respondent and decedent, appellant argues that the district court

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

should have ruled that the marriage between respondent and decedent was void or, alternatively, used its equitable authority to void the marriage. We affirm.

FACTS

The facts here are uncontested. Decedent Irvin John Cooper Sr. and Judith Cooper were married for 60 years. The couple had four children, including Brian Cooper and appellant Angela Forsman.¹

In April 2020, Judith passed away. Shortly thereafter, decedent met respondent Kathy Cooper. At that time decedent was approximately 80 years old; respondent is almost 20 years younger than decedent.

In May 2021, Brian was appointed both emergency guardian and conservator for decedent after the district court found that decedent was “incoherent and incapable of making decisions for himself.” The district court also found that respondent (who was unnamed at the time) was exerting “undue influence” over decedent, took his wallet and computer from his home, and made at least one unauthorized charge of over \$4,000 on a credit card of decedent. The district court further determined that there was an “urgent need” for a harassment restraining order (HRO) against respondent to protect decedent.

An ex parte HRO was filed on July 27, 2021, which prohibited respondent from having contact with decedent. In the meantime, Brian filed a petition for general appointment of guardian and conservator. Brian later withdrew the petition and he and decedent stipulated to the appointment of Arctos Wealth Management and Fiduciary

¹ For ease of reference, Judith Cooper and Brian Cooper will be referred to by their first names.

(Arctos) as limited conservator. Respondent was involved in the proceedings and admitted that she coached decedent through communications with his attorneys on the conservatorship matter.

In October 2021, Arctos filed correspondence alleging that, at the time, respondent claimed to be decedent's fiancé and that she continued to interfere with decedent's financial affairs. The district court subsequently named Arctos as emergency guardian for decedent because respondent appeared "to be interfering with [decedent's] ability to meet his attorneys and to be sending correspondence falsely in his name." In fact, the district court found that, "[d]uring a Zoom court hearing, [respondent] repeatedly interfered with the court's communication with [decedent] and whispered answers to him and when told by the court to stop changed to writing answers for him which he then read verbatim."

Arctos filed an HRO petition on behalf of decedent, seeking to prevent respondent from contacting decedent. The district court granted the petition on October 15, 2021, and entered an ex parte HRO against respondent. But despite the ex parte HRO, respondent and decedent traveled to Iowa where they wed on October 19, 2021. Although Iowa law states that a marriage license does not become valid until three days after the issuance of the license, Iowa Code § 595.4(2) (2024), respondent filed an application for waiver of the three-day waiting period. On the application, respondent provided the following reason for waiving the three-day waiting period: "We're involved in a civil matter. We need to be married so that we can have full spousal protection from each party testifying against the other [and] we need to have any other legal rights afforded to married people including the right to continue living together."

In January 2022, a hearing was held related to the guardianship/conservatorship matter involving decedent and Arctos. Following the hearing, the district court determined that decedent was “incapacitated as that term is define[d] in chapter 524.” In making this determination, the district court found that decedent spent \$4,000 on respondent’s cat; bought respondent a car she did not need and likely could not legally drive; risked infection with the COVID virus by driving respondent to the hospital at her request, knowing she had been infected; and ignored medical advice when he left his care facility with respondent and without his prescribed medications. The district court also found that decedent “stayed with [respondent] for several days after” he broke his hip, “enduring significant pain,” which indicates that respondent failed to seek proper medical care for decedent. The district court determined that, “[a]fter listening to [decedent’s] testimony, the [c]ourt believes [that decedent] would do or say just about anything to not be alone,” and that “he desperately wants female companionship so he will not be alone.” The district court concluded that decedent’s “cognitive impairment as well as his impaired practical judgment leave [decedent] vulnerable to exploitation and harm.” The district court, therefore, granted the petition for appointment of a guardian and conservator, appointing Arctos as decedent’s guardian and conservator.

In March 2022, the district court issued an HRO, prohibiting respondent from having any contact with decedent. The district court found that respondent had “engaged in a variety of problematic behavior that the [c]ourt finds to be harassment,” including: removing decedent “from assisted living without knowledge or approval of family or Guardian/Conservator”; using decedent’s money to pay a vet bill and buy a car; interfering

“with family relationships and contact”; and preventing decedent “from having private meetings and conversations with his lawyers and his Guardian/Conservator.” The district court also found that decedent broke his hip while in respondent’s care and that respondent “delayed medical care [for decedent] and then attempted his removal from [the] hospital against medical advice and without knowledge or consent of [decedent’s] Guardian/Conservator or family.” And the district court found that respondent had contact with decedent in violation of the ex parte HRO by, among other things, taking decedent to Iowa and marrying him.

Also in March 2022, Arctos filed a notice of restriction of visitation and communication and suspension of supervised visitation in an attempt to restrict decedent from communicating, visiting, or interacting with respondent. Arctos alleged that respondent “surreptitiously placed an unmarked opaque black plastic bottle of pills” in decedent’s bedroom, “physically endangering” decedent. Arctos further alleged that the pills were a non-approved medication called Kratom, which produced both stimulant and sedative effects, and is known to pharmacists for its potentially harmful effects and drug interactions.

In December 2022, decedent was taken to an Iowa hospital where it was determined that he should be transported to a hospital more equipped to handle his condition. He was then flown to a hospital in Wisconsin where decedent was diagnosed with terminal cancer. Decedent’s treatment providers noted that decedent was malnourished, tired, and weak, and that, because of his condition, he was not a good candidate for any form of treatment.

Respondent was then arrested for violating the HRO, and decedent was transferred to a facility in Duluth, where he passed away on February 13, 2023.

At the time decedent passed away, decedent had two wills: one executed in 1987 (the 1987 will), and one executed in 2022 (the 2022 will). The 1987 will left most of decedent's estate to his four children if their mother and grandmothers predeceased them. The 2022 will left decedent's estate to respondent and specifically disinherited his children.

In February 2023, Brian commenced this probate action requesting a determination that the 1987 will is valid. After the district court granted the petition, appellant brought a motion seeking to invalidate the marriage between respondent and decedent. Specifically, appellant claimed that the marriage should be declared void under Minnesota Statutes section 517.03 (2024). In the alternative, appellant sought to have the marriage declared a nullity under Minnesota Statutes section 518.02 (2024).

The district court determined that, because "none of the statutorily defined circumstances creating a void marriage apply" in this case, the marriage between respondent and decedent was not void. The district court also determined that, because decedent "is no longer living, annulment is barred by statute." Although the district court found that appellant "makes a compelling public policy argument that the facts of this case should allow for the practical relief she seeks: preventing [respondent] from receiving any assets of the estate in a probate matter," the court concluded that "equitable powers are not

available for it to use in this situation.” The district court, therefore, denied appellant’s motion to invalidate the marriage. This appeal follows.²

DECISION

I.

Appellant challenges the district court’s decision that the marriage between respondent and decedent was not void. This court reviews a district court’s findings of fact for clear error and its legal determinations de novo. *In re Est. of Short*, 933 N.W.2d 533, 537 (Minn. App. 2019). “Findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made.” *Id.* (quotation omitted).

A void marriage is a “marriage that is invalid from its inception, that cannot be made valid, and that can be terminated by either party without obtaining a divorce or annulment. . . . A void marriage does not exist, has never existed, and needs no formal act to be dissolved” *Black’s Law Dictionary* 1162 (11th ed. 2024); see *Fonss v. DeMartini*, No. A11-1660, 2012 WL 1658926, at *3 (Minn. App. May 14, 2012) (citing *Black’s Law Dictionary* for this proposition).³

Under Minnesota law, “[a]ll marriages which are prohibited by section 517.03 shall be absolutely void.” Minn. Stat. § 518.01 (2024). Prohibited marriages under

² Respondent did not file a brief in this matter and this court ordered that the case be determined on the merits pursuant to Minn. R. Civ. App. P. 142.03.

³ Because nonprecedential opinions are not binding authority, we cite *Fonss* for its persuasive value only. See Minn. R. Civ. App. P. 136.01, subd. 1(c) (“Nonprecedential opinions . . . are not binding authority . . . but . . . may be cited as persuasive authority.”).

section 517.03 include those between (1) certain persons related by blood, (2) persons who are already married to another, and (3) persons have not both attained the full age of 18 years. Minn. Stat. § 517.03, subd. 1(a).

In addition, section 517.03 provides:

Developmentally disabled persons committed to the guardianship of the commissioner of human services and developmentally disabled persons committed to the conservatorship of the commissioner of human services in which the terms of the conservatorship limit the right to marry, may marry on receipt of written consent of the commissioner. The commissioner shall grant consent unless it appears from the commissioner's investigation that the civil marriage is not in the best interest of the ward or conservatee and the public. The local registrar in the county where the application for a license is made by the ward or conservatee shall not issue the license unless the local registrar has received a signed copy of the consent of the commissioner of human services.

Id., subd. 2.

Appellant does not claim that any of the types of void marriages set forth in section 517.03, subdivision 1 are at issue here. Instead, appellant argues at length that the marriage between respondent and decedent “never existed under law as both prior [d]istrict [c]ourt orders and expressions of guardianship powers as duly appointed by the [d]istrict [c]ourt barred the necessary interaction of both parties to engage in the substantive prerequisites to marriage.” We disagree. As the district court reasoned, Minn. Stat. § 517.03, subd. 2, contemplates only the prohibition of marriages in which developmentally disabled persons are committed to the guardianship or conservatorship of the commissioner of human services. The statute says nothing about individuals who are under a private guardianship or conservatorship. *See id.* Thus, as the district court

determined, section 517.03, subdivision 2, “is clear in terms of to whom it applies, and because [d]ecedent was not subject to the protection of a guardianship or conservatorship of the commissioner of the department of human services, he was not one of those people.” In other words, because decedent was the subject of a private guardianship and conservatorship, the protections set forth in section 517.03, subdivision 2 are not applicable to this marriage.

Next, appellant argues that the marriage was void because Minnesota law requires that both parties to the marriage be present together at the time of solemnization. To support her position, appellant cites Minn. Stat. § 517.09, subd. 1 (2024), which states that “[n]o particular form is required to solemnize a civil marriage, except: the parties shall declare in the presence of a person authorized to solemnize civil marriages and two attending witnesses that each takes the other as spouse.” Appellant contends that, because respondent was the subject of an HRO that prohibited her from contacting decedent, the two “could not have legally solemnized their marriage” as required by section 517.09, subdivision 1.

Appellant’s argument fails for two reasons. First, appellant never argued to the district court that the marriage was void for failure to follow the requirements of section 517.09, subdivision 1, and we generally consider only those issues argued before and considered by the district court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Because appellant’s argument related to Minn. Stat. § 517.09, subd. 1, was neither argued to, nor considered by, the district court, it is not properly before us.

Second, section 517.03 sets forth specific circumstances when a marriage is void. *See* Minn. Stat. § 517.03. The circumstances set forth in section 517.09, subdivision 1, are not listed in section 517.03. Although a marriage lacking the requirements of section 517.09 may be voidable under section 518.02(a), it is not void under section 517.03. *See Appeal of O'Rourke*, 246 N.W.2d 461, 462 (Minn. 1976) (recognizing the distinction between a void marriage and a voidable marriage). Because lack of proper solemnization is not listed in section 517.03 as a basis to void the marriage, a lack of respondent and decedent's ability to legally solemnize their marriage does not render the marriage void.

Appellant also argues that the marriage was void under Minnesota law because “[i]t was legally impossible for [respondent] to obtain a marriage license or solemnize the marriage without directly violating [d]istrict [c]ourt orders.” But “the validity of a marriage is not affected by the fact the marriage license was obtained by fraud or perjury.” *In re Kinkead's Est.*, 57 N.W.2d 628, 631 (Minn. 1953). And the language of section 517.03 is clear; a violation of a district court order is not a basis to render a marriage void under the statute. *See* Minn. Stat. § 517.03. Although respondent's failure to obtain a valid marriage license may have made her marriage to decedent voidable, it did not make the marriage void. *See O'Rourke*, 246 N.W.2d at 462-63 (concluding that a husband's failure to divorce first wife from a “limited purpose marriage” before getting married to another woman made the marriage voidable but not void). Therefore, the district court did not err in determining that the marriage between respondent and decedent was not void under Minnesota law.

Appellant further contends that the marriage between respondent and decedent was void under Iowa law. But, because appellant never made this argument in district court, it is not properly before us. *See Thiele*, 425 N.W.2d at 582. Moreover, appellant’s argument fails on the merits because the marriage is not void under Iowa law for similar reasons the marriage is not void under Minnesota law. *Compare* Minn. Stat. § 517.03, subd. 1(a), *with* Iowa Code § 595.19 (2024). Accordingly, the district court did not err in determining that the marriage between decedent and respondent is not void.

II.

Appellant challenges the district court’s denial of her request to use its equitable authority to void the marriage between decedent and respondent. “Generally, the decision to grant equitable relief is within the sound discretion of the district court and its decision regarding such relief will not be reversed absent an abuse of that discretion.” *Claussen v. City of Lauderdale*, 681 N.W.2d 722, 726 (Minn. App. 2004), *rev. denied* (Minn. Sept. 21, 2004); *Nadeau v. County of Ramsey*, 277 N.W.2d 520, 524 (Minn. 1979).

If a marriage is not void, it may be voidable. *See O’Rourke*, 246 N.W.2d at 462 (recognizing the distinction between a void marriage and a voidable marriage). Minnesota law sets forth several circumstances when a marriage may be voidable. Minn. Stat. § 518.02. Proceedings to annul a voidable marriage can be brought by certain persons within certain time limits. *See generally* Minn. Stat. §§ 518.03-.05 (2024). But “in no event may an annulment be sought after the death of either party to the marriage.” Minn. Stat. § 518.05. Thus, a statutory action to annul the marriage was not available here.

Appellant argues at length that the district court “erred when it determined equitable powers are not available for it to use in this situation.” We disagree. It is well settled that “‘equity follows the law,’ and [appellate courts] may not ‘disregard statutory law or grant relief prohibited thereby.’” *In re Dakota County*, 866 N.W.2d 905, 914 (Minn. 2015) (quoting *Kingery v. Kingery*, 241 N.W. 583, 584 (Minn. 1932)). And the supreme court has emphasized that the “task” of appellate courts is “not to make legislative policy but to interpret and apply existing statutes.” *Id.* (quotation omitted).

Here, as addressed above, the statutory language is clear that the marriage between respondent and decedent is not void. *See* Minn. Stat. § 517.03. And although the marriage may have been voidable under section 518.02 before decedent passed away, Minnesota law is clear that “in no event may an annulment be sought after the death of either party to the marriage.” Minn. Stat. § 518.05. Because decedent had already passed away by the time appellant brought her motion, the district court was statutorily bound to deny the motion under section 518.05. Although we acknowledge that the equities do indeed rest with appellant in this case, equity follows the law, and the law states that the marriage between respondent and decedent cannot be annulled. Accordingly, we cannot conclude that the district court abused its discretion in determining that it had no power to grant appellant equitable relief.

Affirmed.

SCHMIDT, Judge (concurring specially).

I agree with the majority opinion in affirming the well-reasoned and thoughtful order of the district court. I write separately because appellant Angela Forsman has identified a problematic gap that exists in the law.

As the majority held, the circumstances of this case do not fit into the categories of marriage that the legislature has declared to be invalid from the inception. *See* Minn. Stat. § 518.01 (2024) (delineating “void marriages” with reference to section 517.03); *see also* Minn. Stat. § 517.03 (2024) (providing list of civil marriages that are prohibited). The circumstances also do not allow for the marriage to be voidable under Minnesota Statutes section 518.02 (2024) because decedent Irvin Cooper (Irvin) has passed away. *See* Minn. Stat. § 518.05 (2024) (stating that “in no event may an annulment be sought after the death of either party to the marriage”). The applicable statutes and caselaw leave appellant without a remedy to have the marriage between her father, Irvin, and respondent Kathy Cooper declared void (invalid from its inception) or voidable (annulled).

But appellant has presented a compelling, uncontested record to demonstrate that, at the time of the marriage, Irvin lacked the capacity to marry. The district court found that Irvin “suffered from significant cognitive impairments, and had been legally determined to be incapacitated as the subject of a guardianship and conservatorship.” The court’s order appointing a private guardian and a private conservator also found that Irvin was “incoherent and incapable of making decisions for himself.” This record does not suggest that Irvin ever regained a competency that would allow him to ratify an initially invalid marriage. *See* Minn. Stat. § 518.04 (2024).

Beyond Irvin’s incapacity to enter into the marriage, a harassment restraining order (HRO) was in place at the time of the marriage that precluded respondent from having any direct or indirect contact with Irvin. Yet, respondent violated the HRO,¹ traveled with Irvin to Iowa, and the two married in Iowa apparently without informing the Iowa courts of the existing HRO in Minnesota.

Despite the compelling and uncontested evidence that this marriage should never have occurred, the law does not provide appellant with any relief. Had Irvin been under a different guardianship and conservatorship—under the protection of the commissioner of human services—the marriage would have been declared void. *See* Minn. Stat. § 517.03, subd. 2 (declaring void marriages of developmentally disabled individuals committed to

¹ Violation of an HRO can be a criminal offense:

A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates the [HRO]:

. . . .

(2) because of the victim’s or another’s actual or perceived . . . disability as defined in section 363A.03

Minn. Stat. § 609.748, subd. 6(d) (2024). Under Minn. Stat. § 363A.03, subd. 12 (2024):

“Disability” means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; (3) is regarded as having such an impairment; or (4) has an impairment that is episodic or in remission and would materially limit a major life activity when active.

the guardianship and conservatorship of the commissioner of human services). But given Irvin’s private guardianship and conservatorship—which undisputedly declared him incapable of making decisions for himself—the law does not offer an option to void the marriage.

And despite the compelling and uncontested evidence that the marriage likely would have been ruled voidable given Irvin’s lack of capacity to consent to the marriage (under section 518.02(a)), Irvin did not live long enough for appellant to seek that relief. The law does not allow for an annulment after Irvin passed away. *See* Minn. Stat. § 518.05.²

Given the clear statutory mandates, the district court properly recognized that—despite the egregiousness of the undisputed facts in this case—it was powerless to fashion a remedy in equity. *See U.S. Fire Ins. Co. v. Minn. State Zoological Bd.*, 307 N.W.2d 490, 497 (Minn. 1981) (denying equitable relief when such relief would circumvent statutory restrictions); *Kingery v. Kingery*, 241 N.W. 583, 584 (Minn. 1932) (“[A] court of equity will not disregard statutory law or grant relief prohibited thereby.”).

The district court noted that appellant made “a compelling public policy argument that the facts of this case should allow for the practical relief she seeks: preventing [respondent] from receiving any assets of the estate in a probate matter.” But the law does not allow for that practical relief. Despite the sound public policy arguments, we, like the district court, are not a policy-making court. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210

² Section 518.05 also precluded the district court from annulling the marriage after Irvin’s passing even though the HRO prohibited respondent from having any contact with Irvin at the time of the marriage.

(Minn. 1988) (“The function of the court of appeals is limited to identifying errors and then correcting them.”); *LaChapelle v. Mitten*, 607 N.W.2d 151, 159 (Minn. App. 2000) (“Because this court is limited in its function to correcting errors it cannot create public policy.”), *rev. denied* (Minn. May 16, 2000); *see Leifur v. Leifur*, 820 N.W.2d 40, 43 (Minn. App. 2012) (affirming a district court despite appellant’s “meritorious policy arguments” for reversal, noting that this court “may not disregard unambiguous statutory language”); *State v. Fichtner*, 867 N.W.2d 242, 249 (Minn. App. 2015) (citing this aspect of *Leifur*), *rev. denied* (Minn. Sept. 29, 2015). To the extent that an equitable remedy may be fashioned to address these facts, that remedy must be created by the supreme court. And to the extent there is an obvious gap in the statutory law, it is the legislature’s prerogative to amend the statutes.³ Until such time that the supreme court or the legislature addresses the unique circumstances presented in this case, we, like the district court, have no power to provide appellant a remedy.

³ As the district court noted, Minnesota is one of at least twelve states that has not enacted laws that would allow for a challenge to a marriage or inheritance rights after death when there are allegations that fraud induced the decedent to marry. Some states have rectified that problem. *See, e.g.*, Fla. Stat. § 732.805(1)(a) (2024) (allowing for a challenge to property and inheritance rights when fraud, undue influence, or duress occurred to induce the marriage generating those property or inheritance rights).