

*This opinion is nonprecedential except as provided by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
A25-0590**

In re the Estate of Elaine B Fredericks a/k/a
Elaine Beverly Fredericks, Deceased.

**Filed June 8, 2026
Affirmed
Bond, Judge**

Hennepin County District Court
File No. 27-PA-PR-23-1014

Mark Fredericks, Bloomington, Minnesota (pro se appellant)

William G. Peterson, Peterson Law Office, LLC, Bloomington, Minnesota (for respondent
Derek Reiter)

Considered and decided by Bond, Presiding Judge; Reyes, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

BOND, Judge

Appellant challenges the district court's denial of his petition for probate of his deceased mother's 2021 will, arguing that the district court (1) abused its discretion by denying his motion for a continuance, (2) failed to provide him with proper notice of a court order, and (3) made clearly erroneous findings. We affirm.

FACTS

Decedent Elaine B. Fredericks (mother) died in April 2023 at the age of 98. Mother had one living child, appellant Mark Fredericks (son), two daughters who predeceased her, and nine grandchildren.

In May 2023, respondent Derek Reiter (grandson) filed a petition to be appointed personal representative of mother's estate based on a will mother executed in April 2022 (2022 will). The 2022 will nominated grandson as mother's personal representative and authorized him to take possession of and sell her real estate. After devising specific gifts to her grandchildren, the 2022 will distributed the remainder of mother's estate in equal shares to her children or their heirs. The 2022 will reduced son's share by the value of loans that mother had given to son during her lifetime, and further offset son's inheritance by 58% of the value of a Bloomington property that mother helped son purchase. The 2022 will expressly revoked all prior wills and codicils.

Son objected to grandson's petition and filed his own petition for appointment as personal representative and probate of a previous will that mother executed in December 2021 (the 2021 will). Among other provisions, the 2021 will nominated son as personal representative and gifted mother's Minneapolis home to son. Son's petition asserted that mother lacked capacity to execute the 2022 will and that it was the product of undue influence. Grandson objected to son's petition.

In January 2024, the parties stipulated to a scheduling order, which the court adopted. Relevant here, the scheduling order provided that a pretrial conference would be

held the week of September 23, 2024, the parties must file and serve exhibit and witness lists two weeks before the pretrial conference, and trial would begin on October 23, 2024.

In July, son's counsel withdrew from the case. Son did not file or serve his exhibit and witness list prior to the scheduled September 23 pretrial conference. At the pretrial conference, son told the district court that he was trying to rehire his lawyer. The district court noted son's failure to comply with the scheduling order and directed son to immediately file and serve his exhibit and witness list.

At an October 4 status conference, the district court again noted that son had not filed or served his exhibit and witness list. Son told the court that he was still having difficulty obtaining new counsel and that he would file and serve the required documents by the end of the day. Son filed his exhibit list later that day but did not serve grandson until October 6.

Grandson moved to dismiss the case for failure to comply with the court's scheduling order and applicable court rules. At a hearing on grandson's motion, neither party was able to determine whether certain documents on son's exhibit list had been disclosed during discovery. The district court denied grandson's motion to dismiss in an October 14 order, reasoning that dismissal was not an appropriate sanction because son was a self-represented litigant and son's delay in complying with the scheduling order was "relatively short." But the court ruled that son's exhibits would not be admissible at trial if son had not disclosed them during discovery.

On October 16, son emailed the district court to request a continuance. The district court's clerk informed son that the scheduling order was still in place and that the court

would not take any action in response to son's email. Son then filed a formal motion seeking a continuance on October 18. Son's motion stated that, despite his good-faith efforts, he did not have an attorney and, while several attorneys indicated they could help, they "need more time to prepare." On October 22, the district court denied son's request for a continuance. Son was self-represented at trial, which began the following day.

At trial, the district court heard testimony from seven witnesses including grandson, son, mother's attorney Neil Thompson, attorney Amy Mason, and three of mother's other grandchildren. Attorney Thompson testified that, at the time mother executed the 2022 will, mother was a "reasonable cogent person . . . who understood the nature of her assets," and "understood who she wanted to give them to." Grandson testified that he was not involved in the creation of mother's 2022 will and that mother seemed "intimidated" by son. Other grandchildren testified that mother was "scared to upset [son]," and that he yelled at mother on multiple occasions. Son testified that, based on the 2021 will, mother wanted son to inherit her estate.

The district court denied son's probate petition and petition to be appointed as the personal representative of mother's estate. The district court found the testimony of grandson and attorney Thompson credible, determined that the 2022 will was presumed valid, and concluded that son failed to establish that mother was incapacitated or operating under undue influence at the time of the will's execution.

Son appeals.

DECISION

I. The district court did not abuse its discretion by denying son's motion for a continuance.

Son challenges the district court's denial of his motion for a continuance. We review a district court's denial of a continuance motion for an abuse of discretion. *In re Welfare of T.D.F.*, 258 N.W.2d 774, 775 (Minn. 1977); *see also State v. Courtney*, 696 N.W.2d 73, 82 (Minn. 2005) (“The matter of continuance to permit substitution of counsel is traditionally within the discretion of the trial judge; [their] decision is to be based on the facts and circumstances surrounding the request.”). “A district court abuses its discretion when its findings are not supported by the record or it misapplies the law.” *Minneapolis Grand, LLC v. Galt Funding LLC*, 791 N.W.2d 549, 556 (Minn. App. 2010).

The district court denied son's request to continue trial, finding that son filed his continuance request less than two weeks before trial, the case had been pending for 15 months, son had over three months to retain new counsel, and son had made conflicting statements at status conferences about his intention to represent himself, rehire his attorney, or retain new counsel. Based on our review of the record, we discern no clear error in the district court's findings. While the district court's order denying son's continuance request does not discuss son's contention that he had several attorneys who could take his case, clear error is not established merely because the record might support alternative findings. *See In re Welfare of Child. of L.A.B.*, 30 N.W.3d 136, 142 (Minn. 2025) (holding that an appellant “must show that the record *lacks* the evidence necessary to support the findings the district court actually made” (emphasis added)).

We therefore conclude that the district court did not abuse its discretion when it denied son's motion for a continuance. *See Courtney*, 696 N.W.2d at 82 (concluding that the district court did not abuse its discretion in denying a defendant's motion for a continuance in a criminal case because defendant had not been diligent in procuring counsel).

II. Son's argument that he is entitled to a new trial for lack of notice is forfeited.

Son argues that he is entitled to a new trial because he did not receive timely notice of the court's denial of his motion for a continuance. Son failed to raise this argument in the district court. Appellate courts do not consider arguments made for the first time on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) ("A reviewing court must generally consider only those issues that the record shows were presented [to] and considered by the [district] court in deciding the matter before it." (quotation omitted)). In addition, son's argument relies on messages he contends he sent to the district court, but those messages are not part of the record on appeal. *See id.* at 582-83 (stating that "[a]n appellate court may not base its decision on matters outside the record on appeal"). Accordingly, we decline to consider son's argument that he is entitled to a new trial for lack of notice.

III. Any error in the district court's factual findings is harmless.

Son challenges certain factual findings of the district court as clearly erroneous. On appeal from a probate court's decision after a trial without a jury, we will not disturb the court's findings of fact unless they are clearly erroneous. *In re Est. of Torgersen*, 711 N.W.2d 545, 550 (Minn. App. 2006), *rev. denied* (Minn. June 20, 2006). The clear-error

standard of review “is a review of the record to confirm that evidence exists to support the decision.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 222 (Minn. 2021). “When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* at 223 (quotation omitted). When applying the clear-error standard of review, appellate courts view the evidence in the light most favorable to the findings; they do not reweigh the evidence, make factual findings, or reconcile conflicting evidence. *Id.* at 221-22.

Son argues that the district court clearly erred in its order denying son’s probate petition because the order does not reference the testimony of one of son’s witnesses, attorney Mason. We disagree.

At trial, attorney Mason testified that son contacted her with concerns that mother’s grandchildren had “taken over her finances,” that she met with mother and son in March 2023 for a free consultation, and that mother wanted son to receive mother’s home upon her death. In its order, the district court noted that it received testimony from attorney Mason at trial but did not otherwise reference attorney Mason’s testimony. But the district court made express finding about other witnesses’s testimony, including that grandson and attorney Thompson credibly testified about mother’s meeting with attorney Thompson in the spring of 2022 to update her will and that mother understood her assets and who should receive them. The district court further determined that son had not presented any objective evidence that mother was incapacitated at the time she executed the 2022 will.

The district court’s factual findings are supported by the record. Insofar as son’s argument asks us to reweigh the district court’s implicit determinations regarding the

credibility and weight of attorney Mason’s testimony, we defer to the district court’s credibility determinations and do not reweigh evidence or find facts anew under the clear-error standard of review. *Kenney*, 963 N.W.2d at 221-22.

Son also contends the district court clearly erred by making findings that are not supported by the record. Son appears to refer to the following three findings:

Mr. Thompson testified that [mother] specifically mentioned a house she inherited from her sister, Joan, and that she wanted her [son’s] share of the house to be reduced from his share of inheritance from her.

. . . .

[Son] testified that [mother] wanted him to have the house at Colfax Avenue, which she had inherited from her sister. . . .

[Other grandson] also shared that [mother] wanted [son] to have the house located at Colfax Avenue.

Son argues that these findings are clearly erroneous because the Colfax property was previously owned by mother’s deceased *daughter*, and that another grandson testified that mother wanted son to have *her* home in Minneapolis, not the Colfax property in Bloomington.

To the extent that the district court’s order contains minor misstatements, we conclude that any error is harmless. *See* Minn. R. Civ. P. 61 (stating that “no error or defect in any ruling or order or in anything done or omitted by the court . . . is ground for granting a new trial . . . unless refusal to take such action appears to the court inconsistent with substantial justice”). And “[w]here a decisive finding of fact is supported by sufficient evidence and is adequate to sustain the conclusions of law, it is immaterial whether some

other findings are not so sustained.” *Hanka v. Pogatchnik*, 276 N.W.2d 633, 636 (Minn. 1979); *see also King’s Cove Marina, LLC v. Lambert Com. Constr. LLC*, 22 N.W.3d 581, 599 (Minn. App. 2025) (applying this rule from *Hanka* to conclude that a clearly erroneous finding did not require reversal when it was not decisive as to the ultimate issue), *rev. denied* (Minn. Aug. 12, 2025).

As the district court stated at trial, the contested issue in this case was the validity of mother’s 2022 will. Based on its factual finding that grandson and attorney Thompson were credible, the district court determined that the 2022 will was valid and that son failed to demonstrate that mother was incapacitated or operating under undue influence. Because the district court’s conclusions as to the 2022 will’s validity do not rely on the factual findings challenged by son, any error in the district court’s misattribution of the Colfax property to mother’s sister or its misstatement regarding another grandson’s testimony is harmless and does not merit reversal. *See Hanka*, 276 N.W.2d at 636.

Affirmed.