

*This opinion is nonprecedential except as provided by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
A25-0612**

In re the Marriage of:

Dawn Deana Rutzke King, petitioner,
Respondent,

vs.

Danny Scott King,
Appellant.

**Filed December 8, 2025
Affirmed
Schmidt, Judge**

Rice County District Court
File No. 66-FA-24-2475

David C. Gapen, Gapen, Larson & Johnson, LLC, Minneapolis, Minnesota (for respondent)

Bridget R. Landry, Cordell Law, LLP, Edina, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Bentley, Judge; and Segal, Judge.*

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

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Respondent-wife Dawn Deana Rutzke King petitioned to dissolve her marriage with appellant-husband Danny Scott King. Husband moved to dismiss the petition for lack of subject-matter jurisdiction and, alternatively, based on the doctrine of *forum non conveniens*. The district court denied husband's motion to dismiss. We affirm.

FACTS

Husband and wife were married in 1992. In 2006, husband graduated from nurse-anesthesia school, and the couple—along with their son and daughter—moved to Minnesota. In 2007, they built a home in Faribault, Minnesota.

In 2008, husband and son moved to a rental apartment in Texas so that son could attend a military academy. Husband got a job as a nurse anesthetist in Texas. Wife and daughter remained in Minnesota. After son moved back to Minnesota, husband remained in Texas because he made more money, but he returned to Minnesota once a month. In 2010, husband got a job with a new company in Texas and began earning a higher salary.

In 2014, husband sustained injuries in a motorcycle accident and was unable to work for six months. During this time, wife went to Texas to care for husband. Wife later obtained a Texas driver's license, registered to vote in Texas, and changed their mailing address to the Texas apartment. The couple later bought a townhome in Texas.

In 2022, daughter had a baby while living and attending graduate school in North Dakota. Wife would travel to North Dakota to help take care of the baby.

In late 2023 or early 2024, husband told wife that he wanted a divorce. On September 26, 2024, wife served husband with a summons and a petition for dissolution of marriage. On October 24, 2024, husband filed a petition for dissolution of marriage in Texas state court. Husband's petition asserted that he and wife "have lived apart without cohabitation for at least three years." On October 25, 2024, wife filed the dissolution petition in Minnesota state court. In the petition, wife asserted that she had "been a resident of the State of Minnesota not less than 180 days immediately preceding the commencement of [the] proceeding for dissolution."

Husband moved to dismiss the Minnesota proceedings for a lack of subject-matter jurisdiction and, alternatively, based on the doctrine of *forum non conveniens*. Following a hearing, the district court denied husband's motion to dismiss. Regarding subject-matter jurisdiction, the district court found that wife was "a resident and domiciled in the State of Minnesota for at least the 180 days preceding the commencement of the dissolution action in the State of Minnesota, as required by statute." Regarding *forum non conveniens*, the district court determined that "Texas appear[ed] to be an available forum," that the private-interest factors weighed against dismissal, and that the public-interest factors were neutral. The district court concluded that husband failed to overcome the strong presumption in favor of Minnesota as the proper forum.

Husband appeals.

DECISION

I. The district court did not err by denying husband’s motion to dismiss for lack of subject-matter jurisdiction.

Husband argues that the district court erred by denying his motion to dismiss the dissolution petition for a lack of subject-matter jurisdiction. “Subject-matter jurisdiction refers to a court’s “authority to hear and determine a particular class of actions and the particular questions which the court assumes to decide.” *Robinette v. Price*, 8 N.W.2d 800, 804 (Minn. 1943). For a Minnesota court to have subject-matter jurisdiction to dissolve a marriage, one party must—for at least 180 days immediately preceding the commencement of the dissolution action—reside in, or be a domiciliary of, Minnesota. Minn. Stat. § 518.07, subd. 1. A dissolution action is commenced in Minnesota when a party is served with a summons and a petition for dissolution of marriage. Minn. Stat. § 518.09 (2024).

We review challenges to subject-matter jurisdiction de novo. *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 644 (Minn. 2019). But a party’s residence and domicile are questions of fact. *Jones v. Jones*, 402 N.W.2d 146, 148 (Minn. App. 1987) (residence); *Berc v. Berc*, 407 N.W.2d 131, 134 (Minn. App. 1987) (domicile). We will not reverse a district court’s findings unless they are “palpably contrary to the evidence.” *Davidner v. Davidner*, 232 N.W.2d 5, 7 (Minn. 1975). When we review a district court’s factual findings, we do not weigh or reweigh the evidence. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021). If the record supports the findings of fact that the district court made, it is “immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* (quotation omitted).

A. The district court’s finding that wife was a resident of Minnesota is not palpably contrary to the evidence.

Husband argues that the district court’s finding that wife was a resident of Minnesota in the 180 days immediately preceding the commencement of the dissolution action is palpably contrary to the evidence in the record. We disagree.

In the dissolution context, “[r]esidence” is defined as “the place where a party has established a permanent home from which the party has no present intention of moving.” Minn. Stat. § 518.003, subd. 9 (2024). The purpose of the residency requirement is to prevent forum shopping. *See Davis v. Davis*, 210 N.W.2d 221, 227 (Minn. 1973).

We conclude that the district court’s finding that wife was a resident of Minnesota is not palpably contrary to the evidence. Wife and husband maintained ownership of their long-time Faribault home throughout the 180 days immediately preceding the commencement of the dissolution action. In wife’s dissolution petition, she listed the Faribault address as her address. And she attested, under oath, in an affidavit that although she had spent time in North Dakota helping to raise her grandchild during the relevant 180-day period, wife continued to “go back to Minnesota on weekends and holidays[,] . . . ha[s] always considered [herself] to be living in Faribault[,] and . . . ha[s] every intention to continue to have [their] dream home remain [her] permanent home.” In addition, it is undisputed that wife spent no time in Texas during the 180 days immediately preceding the commencement of this dissolution action. This evidence supports the district court’s finding that wife was a resident of Minnesota for at least 180 days immediately preceding the commencement of the dissolution action.

Much of the evidence that husband relies upon falls outside the relevant 180-day statutory period. The evidence that husband cites may have supported a reasonable basis for inferences contrary to the district court's findings of fact, but that does not make the district court's findings clearly erroneous. *See Kenney*, 963 N.W.2d at 223. As this court has repeatedly noted, albeit in nonprecedential opinions:

The question on appeal is *not* whether the record *could* support the findings husband wanted the district court to make—it is whether the evidence *does* support the findings that the district court *did* make. *See Kenney*, 963 N.W.2d at 223 (“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.” (quotation omitted)); [*Vangsness v. Vangsness*, 607 N.W.2d [468,] 474 [(Minn. App. 2000)] (“That the record might support findings other than those made by the [district] court does not show that the court’s findings are defective.”). An argument that simply cites evidence that *could* support findings that differ from those made by the district court does not identify the evidence that *supports* the findings that the district court made. Nor does it explain why, when we are required to view that evidence in the light most favorable to the findings of the district court, those findings are *clearly* erroneous. *See Kenney*, 963 N.W.2d at 221. Thus, challenging a district court’s findings of fact by simply marshalling evidence that could support findings that differ from those made by the district court is an inadequate way to challenge those findings. Here, there is evidence to support the district court’s findings and husband has not attempted to show how, given that evidence, . . . the district court’s findings are clearly erroneous. Therefore, our inquiry on this point is done. *See id.* at 222 (“[A]n appellate court need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings of the [district] court.” (quotation omitted)).

McDonald v. McDonald, No. A22-1421, 2023 WL 8361312, at *6 (Minn. App. Dec. 4, 2023).¹

B. The district court’s finding that wife was a domiciliary of Minnesota is not palpably contrary to the evidence.

Husband also contends that the court clearly erred in finding wife was a domiciliary of Minnesota in the 180 days before commencing the dissolution action. We disagree.

Domicile is “the union of residence and intention.” *Davidner*, 232 N.W.2d at 7. “[A] domicile, once shown to exist, is presumed to continue until the contrary is shown.” *Id.* A change to residence does not necessarily mean domicile has changed. *Id.*

We conclude that the district court’s finding that wife was a domiciliary of Minnesota is not palpably contrary to the evidence. Again, wife and husband retained ownership of their 2007 marital home in Faribault during the relevant 180-day period. Wife expressed to the district court that “[s]he has lived in Minnesota since 2006” and that “[i]t [was] her intention to stay in Minnesota.” She characterized her time in Texas caring for husband as visits during which she would “live[] out of a suitcase.” There is also evidence in the record that wife and husband invested in improvements to the Faribault property, including the installation of a new roof in April 2022 and a new driveway in August 2023, which suggests an intent to remain. This evidence supports the district court’s finding that wife was a domiciliary of Minnesota in the 180 days immediately preceding the commencement of the dissolution action.

¹ As a nonprecedential case, we cite *McDonald* for its persuasive value. See Minn. R. Civ. App. P. 136.01, subd. 1(c).

Again, husband cites evidence that could have supported a contrary finding. We do not reweigh the evidence when reviewing a district court's factual findings, and thus "it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Kenney*, 963 N.W.2d at 223 (quotation omitted).

II. The district court did not abuse its discretion by denying husband's motion to dismiss the dissolution petition based on the *forum non conveniens* doctrine.

Husband next argues that the district court abused its discretion by denying his motion to dismiss the dissolution petition based on the doctrine of *forum non conveniens*. Under that doctrine, "a court may decline to exercise jurisdiction over a cause of action when it would be more equitable to have the case tried in another available court of competent jurisdiction." *Ansello v. Wis. Cent. Ltd.*, 900 N.W.2d 167, 173 (Minn. 2017) (quotation omitted). There is a "strong presumption" in favor of the petitioner's choice of forum. *Id.* at 174. The presumption is especially strong when "the plaintiff is a resident of the chosen forum." *Id.* "A *forum non conveniens* determination is committed to the sound discretion of the [district] court," and we will not reverse that determination absent an abuse of discretion. *Paulownia Plantations de Pan. Corp. v. Rajamannan*, 793 N.W.2d 128, 133 (Minn. 2009) (quotation omitted). A district court abuses its discretion "when [it] makes an erroneous legal conclusion or a clearly erroneous factual conclusion." *Id.*

When conducting a *forum non conveniens* analysis, the district court must first "establish the existence of an available and adequate alternative forum." *Id.* An alternative forum is "available" if "the foreign court has jurisdiction over the case and the parties" and is "adequate" if "the party has an effective remedy in the alternative forum." *Id.* at 134. If

the district court determines that an available and adequate alternative forum exists, the court then “weigh[s] the private and public interest factors of both forums.” *Id.* at 137. Private-interest factors include “the interests of litigants, ease of access to sources of proof, and any obstacles to a fair trial.” *Ansello*, 900 N.W.2d at 173. Public-interest factors include “administrative difficulties and the local interest in having localized controversies decided at home.” *Id.* (quotation omitted).

In this case, the district court concluded that there appeared to be an alternative forum: Texas. The district court did not determine whether Texas was an adequate forum but instead found that the private-interest factors weighed against dismissal and that the public-interest factors were essentially neutral.

Husband argues that the district court abused its discretion in determining that the private-interest factors weighed against dismissal. Husband argues that: not all records for trial can be obtained electronically; the majority of the couple’s assets are in Texas; it would be easier for wife to travel to Texas for hearings than for him to travel to Minnesota because wife does not work; any witnesses called to testify would more likely be located in Texas; and the affidavit stating that litigants generally cannot appear virtually in Texas is “speculation.” Husband also argues that the district court abused its discretion in determining that the public-interest factors are essentially neutral. He argues that Texas could provide quicker relief and that, because of his and wife’s ties to Texas, there is a local interest in having the dissolution decided in Texas.

We conclude that the district court did not abuse its discretion when it denied husband’s motion to dismiss based on the doctrine of *forum non conveniens*. Husband fails

to identify any erroneous legal conclusion or clearly erroneous factual finding in the district court's analysis. Beginning with the private-interest factors, Minnesota presents no major obstacles to a fair trial or to access to sources of proof. As the district court reasoned, "[a]ccess to the parties['] records and other sources of proof are easily obtained through electronic means" as demonstrated by the records included in the parties' filings in the Minnesota dissolution proceeding. Additionally, husband can participate in Minnesota district court proceedings virtually from Texas. In contrast, there is evidence in the record that suggests that wife may not be able to participate in Texas hearings virtually from Minnesota. And there is nothing in the record that suggests that Minnesota presents any administrative delays or difficulties or conflicts of law. The district court did not abuse its discretion in denying husband's *forum non conveniens* motion.

III. The district court did not impose an anti-suit injunction.

Husband argues that the district court erred by effectively imposing an anti-suit injunction² when the order noted that the dissolution action "will proceed in the State of Minnesota." We conclude that the district court did not impose an anti-suit injunction.

No motion for an anti-suit injunction was before the district court. And the language used in the district court's order did not *sua sponte* impose an anti-suit injunction because the order does not prohibit a party from commencing or continuing an action in a different jurisdiction, which is the defining characteristic of an anti-suit injunction. Instead, the

² An anti-suit injunction is an "injunction[] that forbid[s] litigants from proceeding in identical or related legal proceedings in sister states." John Ray Phillips, III, *A Proposed Solution to the Puzzle of Antisuit Injunctions*, 69 U. Chi. L. Rev. 2007, 2007 (2002).

court merely explained that the action already pending in Minnesota could proceed.³

Affirmed.

³ We take no position on the merits of any motion for an anti-suit injunction should such a motion be filed. We also do not comment on whether the Minnesota or Texas court should stay the proceedings to defer to the parallel litigation in the other state. Nor do we comment on the merits of the dissolution proceeding currently pending in Minnesota.