

*This opinion is nonprecedential except as provided by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
A25-0635**

Presbyterian Family Foundation On Behalf of Vulnerable Adult,
Respondent,

vs.

Joan Dobbert Wachs,
Appellant,

Sherburne County Health and Human Services,
Respondent.

**Filed February 23, 2026
Affirmed
Wheelock, Judge**

Sherburne County District Court
File No. 71-CV-24-986

Melania N. Mrozek, Chad M. Roggeman, RGP Law Ltd., St. Cloud, Minnesota (for
respondent Presbyterian Family Foundation)

Nicole Nejezchleba, Sharon R. Osborn, Osborn Law Office, LLC, Princeton, Minnesota
(for appellant)

Dawn Nyhus, Sherburne County Attorney, Benjamin J. Sime, Assistant County Attorney,
Elk River, Minnesota (for respondent Sherburne County Health and Human Services)

Considered and decided by Bentley, Presiding Judge; Wheelock, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

WHEELLOCK, Judge

Appellant challenges the district court’s order denying her motion to dismiss a temporary ex parte harassment restraining order (HRO), arguing that the county social-services agency that filed the HRO petition on behalf of appellant’s stepmother-in-law, a vulnerable adult, lacked standing. Because any error in substituting the vulnerable adult’s guardian for the county social-services agency as the petitioner for the HRO under Minn. R. Civ. P. 25.03 was harmless, we affirm.

FACTS

In July 2024, respondent Sherburne County Health and Human Services (the county) filed a petition for an HRO on behalf of vulnerable adult Janice Wachs against Janice’s stepdaughter-in-law, appellant Joan Dobbert Wachs.¹ The petition alleged that Joan “[m]ade harassing phone calls or sent harassing text messages to” Janice and “[s]tole property from” her. The petition further alleged as follows: Janice used to live with Joan in Joan’s home, but left on July 12, 2024, due to “unsanitary and cluttered conditions” and moved in with her sisters on a temporary basis; Janice attempted to revoke a power of attorney (POA) in which she named Joan as her attorney-in-fact; and Janice’s sisters reported that Joan repeatedly contacted Janice, pressuring Janice to reinstate her as the POA

¹ Because Janice Wachs and Joan Dobbert Wachs share a last name, we refer to them by their first names.

and return to Joan's home.² The petition also alleges that Joan withdrew approximately \$16,000 from Janice's bank account, ostensibly based on her authority under the POA.

On the same day, the county also filed a petition for emergency appointment of a guardian and conservator on behalf of Janice. The district court granted both petitions, issuing a temporary ex parte HRO against Joan and appointing respondent Presbyterian Family Foundation (PFF) as Janice's emergency guardian and conservator.³ In October 2024, the district court converted the appointment from temporary to permanent.

Joan requested a hearing to contest the HRO. At the hearing, Joan argued that evidence of financial misconduct is beyond the scope of an HRO proceeding and that the district court should therefore not consider Joan's alleged actions related to Janice's bank account. The district court requested briefing on the issue and continued the hearing. Joan subsequently moved to dismiss the HRO petition entirely, arguing that the county lacked standing to petition for an HRO on behalf of a vulnerable adult under Minn. Stat. § 609.748 (2024) (the HRO statute). In response, the county moved to substitute PFF as petitioner in the HRO action pursuant to Minn. R. Civ. P. 25.03, arguing that PFF has statutory standing as Janice's guardian to maintain the HRO action on Janice's behalf and rule 25.03 allows for substitution in the case of a transfer of interest. The district court denied Joan's motion

² The petition states that it is unclear whether Janice's original POA to Joan was properly revoked when Janice attempted to revoke it.

³ The record does not contain the actual petition for emergency guardianship or the subsequent order granting it, but the parties reference the order in their briefing to this court and to the district court, and no one disputes that the appointment of PFF as Janice's emergency guardian and the grant of the temporary ex parte HRO against Joan occurred on the same day.

to dismiss for lack of standing, granted the county’s motion to substitute PFF as petitioner, and ruled that it would consider evidence of financial misconduct at the HRO hearing.

Joan appeals the district court’s order denying her motion to dismiss for lack of standing.⁴

DECISION

The parties’ main dispute is over whether the county had statutory authority to petition for an HRO on behalf of a vulnerable adult.⁵ The HRO statute provides authority for “[a] person who is a victim of harassment or the victim’s guardian or conservator” to petition for an HRO, but it does not expressly authorize a county social-services agency to do so on behalf of a victim. Minn. Stat. § 609.748, subd. 2(a). The county contended that it had authority to file the HRO petition pursuant to a different statute, Minn. Stat. § 626.557 (2024), which provides that a county social-services agency may take certain actions to protect vulnerable adults.

Both respondents contend that the standing issue is moot because the district court substituted PFF as petitioner in place of the county pursuant to Minn. R. Civ. P. 25.03, and Joan does not dispute that PFF, as guardian, has standing to petition for an HRO on Janice’s

⁴ The district court has not yet issued an order granting or denying a permanent HRO.

⁵ Joan also raised the issue of whether evidence of financial misconduct is outside the scope of an HRO proceeding. We decline to review this issue because the district court has not yet issued a final order on the HRO and appellate review is therefore premature. *See* Minn. R. Civ. App. P. 103.03(g) (providing that, generally, we review appeals “from a final order, decision or judgment affecting a substantial right” in a special proceeding). But we may review Joan’s challenge to the district court’s order denying her motion to dismiss for lack of standing because it is immediately appealable. *See Stone v. Invitation Homes, Inc.*, 986 N.W.2d 237, 247 (Minn. App. 2023), *aff’d*, 4 N.W.3d 489 (Minn. 2024).

behalf.⁶ Joan disagrees that the issue is moot and maintains that, because the county lacked standing under either statute, the district court was unable to substitute PFF pursuant to rule 25.03 and the substitution was void at the outset. Following oral argument, we requested supplemental briefing on the applicability of Minn. R. Civ. P. 17.01, which provides, in part:

No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

We asked the parties to address whether rule 17.01 would allow the district court to substitute PFF as the petitioner in the HRO proceedings and, if so, whether any error by the district court in substituting PFF under rule 25.03 was therefore harmless. We conclude that the district court could substitute PFF as the petitioner in the HRO action pursuant to rule 17.01, even if the county had no standing to bring the action when it was commenced, and that substitution would “have the same effect as if the action had been commenced in the name of the real party in interest.” Minn. R. Civ. P. 17.01.

⁶ There has been no indication that PFF has filed a new HRO petition, though it could do so; respondents’ mootness theory is predicated on only the district court’s substitution of PFF as petitioner.

A. Rule 17.01 allows for substitution when a petition is initially brought by the wrong party.

We review the district court's denial of a motion to dismiss for lack of standing de novo. *See Stone*, 4 N.W.3d at 493 (“We review issues of standing de novo.” (Quotation omitted.)). Rule 17.01 provides that a district court should not dismiss an action that is not brought “in the name of the real party in interest” without allowing for ratification by or substitution of the real party in interest upon objection. Respondents contend that PFF, as Janice’s guardian with legal authority to seek an HRO on her behalf, is a real party in interest for purposes of the rule. We agree.

“The traditional test to determine whether an entity is a real party in interest is whether the party has the legal right to bring the claim under the applicable substantive law.” *Austin v. Austin*, 481 N.W.2d 884, 886 (Minn. App. 1992) (concluding that, if a mother were the legal custodian of her child, she would be a real party in interest and her assignee could sue for child support in her name). PFF has the legal right to seek an HRO on Janice’s behalf pursuant to the HRO statute and is therefore a real party in interest. A plain reading of rule 17.01, then, indicates that the district court could properly substitute PFF in this action despite it having not been brought by PFF initially. The purpose behind rule 17.01 also supports this application.

Rule 17.01 was adopted to prevent a defendant from being subjected to “further demands by other claimants for the same relief.” *Norby v. Bankers Life Co. of Des Moines*, 231 N.W.2d 665, 667-68 (Minn. 1975). This concern is implicated here because PFF would have to file a new HRO petition against Joan for the same relief if substitution were

denied. And the supreme court has implied that rule 17.01 can be used to cure standing defects as well. *See id.* (holding that a third-party defendant could ratify an action brought by a plaintiff pursuant to rule 17.01 when the defendant claimed that the plaintiff suffered no loss and therefore had no standing).

Persuasive caselaw further supports the application of rule 17.01 in the HRO context. We have twice determined that rule 17.01 can be used to substitute a party with standing to bring an HRO in cases in which the HRO petition was initially filed by a party that lacked standing. In *Naumann v. Zimmer*, the appellant argued that an HRO filed against him by a parish-council chairperson on behalf of a church was void because the real party in interest was the church and the chairperson therefore lacked standing to bring the HRO personally. No. C2-96-1066, 1997 WL 10520, at *2 (Minn. App. Jan. 14, 1997), *rev. denied* (Minn. Mar. 18, 1997).⁷ We nonetheless concluded that, if this were a defect, it was cured pursuant to rule 17.01 because the church subsequently ratified the HRO. *Id.* We implied the same in *Steps of Success Homes, LLC v. Dowell*, in which we concluded that a limited-liability company that operated a foster home lacked standing to bring an HRO petition on behalf of the foster home's minor residents because the HRO statute did not include a foster home in the list of parties who may bring an HRO on behalf of a minor child. No. A09-587, 2009 WL 5091936, at *2-3 (Minn. App. Dec. 29, 2009). We further stated that subsequent ratification of the HRO by the president of the foster home also could not cure the defect pursuant to rule 17.01 because she was not the minors' guardian and

⁷ We may cite nonprecedential opinions of this court for their persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

not the real party in interest. *Id.* at *4. Our analysis suggested, though, that a legal guardian—such as PFF—who *is* statutorily authorized to bring an HRO on behalf of another person may subsequently ratify an HRO pursuant to rule 17.01, even if the HRO proceeding was initiated by someone who lacked standing to bring it. *See id.* at *4-5. And because rule 17.01 allows for either ratification by or substitution of a real party in interest, substitution would be available, as well. Therefore, the district court would have been able to substitute PFF under rule 17.01.

To convince us otherwise, Joan points to *Ortiz v. Gavenda*. 590 N.W.2d 119 (Minn. 1999). In *Ortiz*, the supreme court held that rule 17.01 would not allow a widow to revive a void wrongful-death action after she failed to become duly appointed as trustee for the next of kin of her deceased husband within the statutory limitations period because the initial action was a “legal nullity” and therefore could not be cured by later substitution. *Id.* at 122-23 (quotation omitted). Joan argues that *Ortiz* stands for the proposition that a district court may not rely on rule 17.01 to cure a standing defect resulting from an action brought by the wrong party. But *Ortiz* is distinguishable. The result in *Ortiz* turns on the unique requirement that courts strictly construe the wrongful-death statute because it is in derogation of the common law. *Id.* Accordingly, later cases have limited the holding in *Ortiz* to the wrongful-death context. In *Haugland v. Maplevue Lounge & Bottleshop, Inc.*, the supreme court held that a complaint that included claims under the Minnesota Civil Damages Act and was initially brought in the name of the wrong party could be corrected after the statute of limitations had run, notwithstanding the holding in *Ortiz*. 666 N.W.2d

689, 692-95 (Minn. 2003).⁸ The supreme court distinguished *Ortiz* because “the appointment of a trustee to commence a wrongful death action was a condition precedent to bringing such an action . . . [and t]hat is not the case here.” *Id.* at 695. Thus, it appears that the supreme court has limited *Ortiz* to its facts and the wrongful-death context.

This court has since also reasoned that the defect in *Ortiz* was a function of the *lack of an entity with the capacity to sue* absent appointment of a trustee—a condition unique to wrongful-death actions. In *Metro Building Cos. v. Ram Buildings, Inc.*, we held that a corporate entity that failed to sue in its accurate registered name could later correct the complaint. 783 N.W.2d 204, 207-08 (Minn. App. 2010), *rev. denied* (Minn. Aug. 10, 2010). We distinguished *Ortiz*, stating:

The fundamental difference between the wrongful-death cases and this case is that in wrongful-death cases, it is the appointment of the trustee that forms the legal capacity for a successor of the deceased to bring or to continue the action for wrongful death. Minn. Stat. § 573.02, subds. 1, 3 (2002). A corporation, in contradistinction, is an *existing entity* with a legal capacity to sue and be sued. Minn. Stat. § 302A.161, subd. 3 (2002).

Id. at 208 (quoting *Save Our Creeks v. City of Brooklyn Park*, 682 N.W.2d 639, 648 (Minn. App. 2004), *aff’d*, 699 N.W.2d 307 (Minn. 2005)). We therefore held that, because the corporate entity existed, *Ortiz* did not preclude the defect from being cured. *Id.* We conclude that the case here is similar to *Metro Building*—a real party in interest existed at the commencement of the action, but the action was brought in the name of the incorrect

⁸ The supreme court in *Haugland* did not analyze the application of rule 17.01; however, it reversed in favor of the appellant, who argued that Minn. R. Civ. P. 15.01, 15.03, and 17.01 should allow her to cure the defect. *Id.* at 692, 696.

party.⁹ That is precisely the situation contemplated by rule 17.01, which allows for substitution of the real party in interest. The substitution of PFF was therefore appropriate.

Joan further argues that rule 17.01 conflicts with the HRO statute and should not be applied here, citing authority for the proposition that substantive statutes control over procedural rules when they are inconsistent. We do not discern any inconsistency. Nothing in the HRO statute precludes a court from correcting a procedural defect when an action was initially brought by the wrong party. This argument is therefore without merit.

Joan finally argues that, because the county sought substitution seven months after PFF was initially appointed, it was beyond the “reasonable time” set forth in the rule and, thus, rule 17.01 does not allow substitution here. This argument is unavailing because rule 17.01 states, “No action shall be dismissed . . . until a reasonable time has been allowed *after objection* for ratification of commencement of the action by, or joinder or substitution of, the real party in interest.” (Emphasis added.) The record indicates that the county informally sought PFF’s substitution via correspondence to the district court *before* Joan objected to the county’s lack of standing by moving to dismiss and that the county formally sought PFF’s substitution via motion shortly after Joan moved to dismiss. Because rule 17.01 requires only that substitution or ratification occur within a reasonable

⁹ Though the record is not clear whether, on the day it received the filings, the district court signed the order appointing PFF emergency guardian and conservator before or after it signed the HRO, it is clear that Janice was a real party in interest with standing to bring the petition at the time it was filed. This is because, when a suit is “brought by a guardian on behalf of an adult ward, the cause of action belongs to the ward.” *State v. Nodes*, 538 N.W.2d 158, 161 (Minn. App. 1995).

time from a party's objection to the lack of a real party in interest, the substitution here occurred within a reasonable time.

In sum, substitution is proper based on a plain application of rule 17.01.

B. Any error by the district court is harmless.

Because substitution of PFF is proper under rule 17.01, any error by the district court in substituting PFF for the county pursuant to rule 25.03 caused no prejudice to Joan and was thus harmless. Minn. R. Civ. P. 61 provides:

[N]o error . . . in anything done or omitted by the court or by any of the parties is ground for . . . disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

This rule dictates that “the mere existence of [an] error is, by itself, insufficient to require a grant of relief; the appellant must also show the district court’s error prejudiced them.”

Cambria Co. v. M&M Creative Laminants, Inc., 995 N.W.2d 426, 439 (Minn. App. 2023), *aff’d*, 11 N.W.3d 318 (Minn. 2024). “An appellate court will not reverse a correct decision of the district court because the district court based that decision on the wrong reasoning.” *Am. Fam. Mut. Ins. Co. v. M.B.*, 563 N.W.2d 326, 329 n.1 (Minn. App. 1997), *rev. denied* (Minn. July 28, 1997).

Joan has not demonstrated that she was prejudiced. She argues that it is improper as a matter of public policy to allow PFF to benefit from the taxpayer-funded county’s litigation efforts by being substituted in this matter. But that argument has no bearing on whether the district court’s *error*—its reliance on an incorrect procedural rule—caused her

prejudice. These concerns would presumably be implicated even if the district court had substituted PFF under the correct procedural rule. Nor does Joan dispute that PFF has—and has had since the day it was appointed—the authority to petition for an HRO on Janice’s behalf. Joan has therefore not shown that the district court’s error prejudiced her.¹⁰ Any error was therefore harmless.

Because any error in substituting PFF, Janice’s guardian, for the county as the petitioner for the HRO under rule 25.03 was harmless, we affirm.

Affirmed.

¹⁰ Joan asserts that the county and PFF never raised the harmless-error argument “in their briefs to this court” and therefore waived it. However, both PFF and the county addressed the harmless-error issue in their supplemental briefs as requested by this court. And although appellate courts “[o]rdinarily . . . rely on the parties to frame the issues for decision,” a court may “resolve [a] case on the supplemental issues and briefing” when the parties fail to identify “relevant issues in [the] case.” *Hoskin v. Krsnak*, 25 N.W.3d 398, 404 n.3 (Minn. 2025) (quotations omitted). Further, it is the appellant’s burden to demonstrate that the district court’s error caused prejudice. *See Sinda v. Sinda*, 949 N.W.2d 170, 176 (Minn. App. 2020) (stating that the burden to show prejudice under Minn. R. Civ. P. 61 is on the appellant). And rule 61 itself states that we “*must* disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.” (Emphasis added.)