

*This opinion is nonprecedential except as provided by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
A25-0655**

In the Matter of:

Marineisy Jimenez Rosario, petitioner,
Respondent,

vs.

Robert Eliazar Villanueva,
Appellant.

**Filed December 15, 2025
Affirmed
Bentley, Judge**

Hennepin County District Court
File No. 27-DA-FA-24-6122

Emma Dunphy Smith, Central Minnesota Legal Services, Minneapolis, Minnesota (for respondent)

Robert Eliazar Villanueva, Minneapolis, Minnesota (self-represented appellant)

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

NONPRECEDENTIAL OPINION

BENTLEY, Judge

Appellant Robert Eliazar Villanueva challenges the district court's order for protection (OFP) and orders denying his motions to vacate the OFP. We conclude that the

district court did not abuse its discretion or otherwise err with respect to any of Villanueva's challenges. We therefore affirm.

FACTS

Villanueva was in a relationship with respondent Marineisy Jimenez Rosario in 2022 and 2023, during which time Rosario became pregnant. After her relationship with Villanueva ended, Rosario filed a child support case against him. She then began receiving threatening text messages from different numbers, which she believed came from Villanueva. Rosario consequently filed a petition for an OFP against Villanueva on October 14, 2024, alleging he committed numerous instances of domestic abuse in their relationship, including physical violence and threats. The district court granted an ex parte OFP and scheduled an evidentiary hearing before a referee.

At the evidentiary hearing, Rosario testified about the allegations in her petition and offered several exhibits to corroborate her claims. The first exhibit was a photo of her swollen face taken after Villanueva allegedly "grabbed [her]" and "threw [her] to the ground." She also presented a medical report from March 2023, which she claimed related to lingering pain in her abdomen after she was struck by Villanueva while she was pregnant with their child. She testified that she did not tell the doctor about the abuse because she felt "very afraid and very vulnerable" and had received "a lot of threats from [Villanueva]." She similarly testified that she "never dared to call the police" because Villanueva would threaten her. Both exhibits were admitted over Villanueva's objection.

Rosario also testified to an incident at her home in June 2023, when Villanueva threatened to kill her with a knife during an argument. Rosario's only witness, B.P., was

present during this incident. B.P. testified that “[Villanueva] came in to talk to [Rosario]. . . . And they were arguing. And he had a knife. And he was threatening her. He was telling her that he was going to kill her, and we were there.” B.P. emphasized that he did not call the police to report the incident because Rosario asked him not to and because B.P. was “afraid.”

Villanueva testified that he “never struck [Rosario] in [his] entire life.” As support, he introduced text messages from Rosario that he said showed that she was not afraid of him because she was “still communicating with [him]” and “still inviting [him] over to see [their] son.” He also claimed that he did not recognize B.P. and that the knife incident never occurred.

Following the hearing, the district court made factual findings and granted Rosario’s petition for an OFP with a two-year duration. The district court found that Rosario credibly testified to multiple incidents that qualify as domestic abuse under Minnesota Statutes section 518B.01 (2024). The court further found that B.P. corroborated Rosario’s testimony regarding the knife incident. As for Villanueva, the court found that he had not demonstrated that he did not commit acts of domestic abuse. Instead, the court found that he focused on “attempting to discredit [Rosario] and her witness” and his arguments were not “consistent with the realities of domestic abuse, where victims do frequently remain in abusive relationships and even attempt to work on those relationships.”

Villanueva moved to vacate the OFP under Minnesota Rule of Civil Procedure 60.02 on the grounds that there was newly discovered evidence and that Rosario

had misrepresented information at the hearing.¹ In the motion, he stated that he had obtained a 2023 police report showing that Rosario had lied about her lack of contact with police. The court denied this motion.

Villanueva filed two more motions soon after, again requesting the OFP to be vacated because of newly discovered evidence. The evidence included the 2023 police report from the previous motion and a new 2025 police report made by Villanueva, in which he claimed that Rosario violated the OFP by texting him. Throughout both motions, he also alleged that judicial bias had improperly affected the proceedings and that his due-process rights were violated because the district court did not give him a meaningful opportunity to present evidence. The district court denied both motions.

Villanueva appeals.

DECISION

Villanueva presents three main issues on appeal. First, he challenges the OFP on multiple grounds and asks that we reverse. Second, he challenges the district court's rejection of evidence offered in his motions to vacate the OFP. And third, he argues the district court violated his due process rights. We address each argument in turn.

¹ Villanueva titled each motion as a motion for reconsideration, but in the text of the motions he argued for the OFP to be vacated under rule 60.02. The district court determined that the motions invoked rule 60.02 and understood the filings as motions to vacate, not for reconsideration. We agree that the motions are more accurately understood as motions to vacate under rule 60.02.

I

Villanueva argues that the district court abused its discretion when it determined that Rosario established by a preponderance of the evidence that domestic abuse occurred. He also challenges several of the court’s factual findings and evidentiary decisions in its consideration of the OFP petition.

We review the decision to grant an OFP for an abuse of discretion. *Thompson v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Id.* (quotation omitted). We review the district court’s construction and application of statutes de novo. *Braend ex rel. Minor Child. v. Braend*, 721 N.W.2d 924, 927 (Minn. App. 2006). And we review the district court’s factual findings for clear error. *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004).

Minnesota Statutes section 518B.01 governs the circumstances under which a district court may grant an OFP petition. A petition for an OFP requires allegations of “specific facts and circumstances” of domestic abuse. Minn. Stat. § 518B.01, subd. 4(b). “Domestic abuse” is defined as including “(1) physical harm, bodily injury, or assault” or “(2) the infliction of fear of imminent physical harm, bodily injury, or assault.” Minn. Stat. § 518B.01, subd. 2(a)(1)-(2). In determining whether an OFP may be granted, courts consider “the timing, frequency, and severity of any alleged instances of domestic abuse, along with the likelihood of further abuse.” *Thompson*, 906 N.W.2d at 500 (quotation omitted).

We first address Villanueva’s argument that the district court included clearly erroneous findings in its order. We then consider his argument that the court abused its discretion in deciding several evidentiary rulings. And finally, we reach the argument that the evidence of domestic abuse was insufficient to meet the preponderance-of-the-evidence standard.

A

We begin with Villanueva’s arguments that the district court clearly erred in its factual findings. In reviewing facts for clear error, we will reverse only if the findings are “manifestly contrary” to the weight of the evidence as a whole. *Gada*, 684 N.W.2d at 514 (quoting *Rogers v. Moore*, 603 N.W.2d 650, 656 (Minn. 1999)). We will “neither reconcile conflicting evidence nor decide issues of witness credibility.” *Aljubailah ex rel. A.M.J. v. James*, 903 N.W.2d 638, 643 (Minn. App. 2017) (quoting *Gada*, 684 N.W.2d at 514).

First, Villanueva argues that it was clear error for the district court to find Rosario credible, particularly because she misrepresented that she had not contacted the police about Villanueva’s abuse. Rosario testified in detail to several alleged acts of abuse, referencing specific dates and providing context. She also offered exhibits corroborating her claims and a witness who testified to seeing Villanueva threaten Rosario with a knife. Although she testified that she “never dared to call the police or anything like that” during her relationship with Villanueva, she later clarified that she spoke to the police after their relationship ended. Because we defer to the district court’s credibility determinations and the district court’s finding is not manifestly contrary to the weight of the evidence, we are

unpersuaded by Villanueva's argument that the district court clearly erred in crediting Rosario's testimony. *See Gada*, 684 N.W.2d at 514.

Second, Villanueva disputes that B.P. witnessed Villanueva threaten Rosario, and he argues that the district court clearly erred in crediting B.P.'s testimony. But B.P.'s testimony was clear—he stated that he was with Rosario and Villanueva, that the two began arguing, and that “[Villanueva] had a knife” and “[h]e was telling [Rosario] that he was going to kill her.” On cross-examination, B.P. was unable to answer Villanueva's questions about details like the clothing Villanueva was wearing that day, but the district court still credited B.P.'s testimony as being corroborative of Rosario's allegations. Because credibility issues are “exclusively the province of the factfinder,” we conclude that the court's findings as to the corroborative value of B.P.'s testimony were not clearly erroneous. *Gada*, 684 N.W.2d at 514.

Third, Villanueva argues that the court should have included Rosario's mental-health history in its factual findings. We are not persuaded that the district court clearly erred because the only evidence relating to Rosario's mental health was her testimony that she suffered from certain diagnosed conditions and her confirmation that she was hospitalized for mental-health treatment at one point. There was no evidence admitted at the hearing that demonstrated the relevance of her mental-health history to the underlying OFP allegations. For that reason, we do not find that the district court clearly erred by not referring to her mental health in its findings.

In sum, we conclude the district court did not clearly err in its factual findings.

B

We next turn to Villanueva's evidentiary challenges. We review the district court's evidentiary rulings for abuse of discretion. *Aljubailah*, 903 N.W.2d at 644. Villanueva argues that the district court abused its discretion by admitting two exhibits: Rosario's medical record relating to abdominal pain and a photo she took of facial bruising.

Beginning with the medical record, Villanueva argues that the record was irrelevant because it related to a scheduled prenatal-care appointment, and he disputes whether the reported pain was attributable to injuries from domestic abuse. Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable." Minn. R. Evid. 401. Rosario offered these records to corroborate allegations that Villanueva punched her in the abdomen and caused lasting pain. The district court found that the record was relevant and probative because "near the end of the report, there is a brief section . . . detailing that the reason for the visit is [Rosario] reporting pain in the right lower quadrant of her abdomen." This note had a tendency to make it more probable that Rosario experienced pain in her abdomen significant enough to lead her to visit a doctor and, in turn, adds credence to her allegation that Villanueva struck her in the abdomen. This meets the standard for relevance, and we discern no abuse of discretion by the district court in its ruling.

Villanueva also argues that Rosario's offered photo showing bruises to her face lacked authentication. Evidence may be authenticated by testimony of a witness with knowledge. Minn. R. Evid. 901(b)(1). At the hearing, Rosario testified that she took the photo in December 2022, after Villanueva hit her, grabbed her by the hair, and threw her

to the ground. Because she took the photo and has personal knowledge of the circumstances surrounding the time it was taken, her testimony is sufficient to authenticate the photo.

We conclude that the district court did not abuse its discretion in admitting either exhibit that Villanueva challenges.

C

Finally, Villanueva argues that the district court abused its discretion in granting the OFP because Rosario failed to present evidence sufficient to meet the preponderance-of-the-evidence standard of proof. This standard requires that, “to establish a fact, it must be more probable that the fact exists than that the contrary exists.” *Oberg v. Bradley*, 868 N.W.2d 62, 65 (Minn. App. 2015) (quoting *City of Lake Elmo v. Metro. Council*, 685 N.W.2d 1, 4 (Minn. 2004)). To determine whether sufficient evidence supports the district court’s decision to grant an OFP, we “review the record in the light most favorable to the district court’s findings” and we reverse “only if we are left with the definite and firm conviction that a mistake has been made.” *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (quotation omitted).

Villanueva relies on *Bjergum v. Bjergum*, 392 N.W.2d 604 (Minn. App. 1986, to support his argument. In *Bjergum*, we held that evidence of abuse from several years earlier was insufficient to support an OFP because it did not show the respondent’s present intent to harm. 392 N.W.2d at 606-07. But that holding was later abrogated in *Thompson*. There, the Minnesota Supreme Court held that “a petitioner need only show that ‘physical harm, bodily injury, or assault’ has actually occurred, regardless of *when* it occurred, to satisfy

the first definition of ‘domestic abuse.’” *Thompson*, 906 N.W.2d at 500. Villanueva’s reliance on *Bjergum* is therefore misplaced.

Reviewing the evidence as a whole, we are not persuaded that the trial court made a mistake in determining that Rosario proved by a preponderance of the evidence that she experienced domestic abuse. The district court credited the testimony of Rosario and her witness and considered exhibits corroborating her allegations. We have found similar or lesser showings by OFP petitioners to be sufficient to meet the preponderance standard. *See Aljubailah*, 903 N.W.2d at 644 (finding that the petitioner’s allegations of being shoved, corroborated by photographs of bruising, were sufficient to support the district court ordering an OFP, despite the respondent denying he harmed the petitioner). Viewing the evidence in the light most favorable to the district court’s findings, we are persuaded that the district court did not err by concluding that Rosario met the preponderance-of-the-evidence standard.

We therefore conclude that the district court did not abuse its discretion by issuing the OFP against Villanueva.

II

Villanueva next argues that the district court improperly rejected the evidence he offered in his motions to vacate the OFP. Both motions were brought under Minnesota Rule of Civil Procedure 60.02. Because the decision to grant such relief is “based on all the surrounding facts of each specific case,” the district court has broad discretion when ruling on a rule 60.02 motion, and we review for abuse of that discretion. *Gams v. Houghton*, 884 N.W.2d 611, 620 (Minn. 2016).

Rule 60.02 provides that a court may relieve a party from a judgment, order, or proceeding for reasons including “[n]ewly discovered evidence which by due diligence could not have been discovered in time to move for a new trial pursuant to Rule 59.03.” Minn. R. Civ. P. 60.02(b). Newly discovered evidence must be relevant and admissible; more than “merely collateral, impeaching, or cumulative;” and likely to “have a probable effect” on the ultimate result. *Frazier v. Burlington N. Santa Fe Corp.*, 811 N.W.2d 618, 631 (Minn. 2012) (quotation omitted).

The evidence Villanueva presents in his motions consisted of a Hopkins Police Department incident report from 2023 and a Bloomington police incident report number from February 2025.² As for the Hopkins report, the district court denied that it was newly discovered evidence because it was available prior to the hearing. We agree. The report, made over a year prior to the OFP evidentiary hearing, was available with reasonable diligence at the time of the hearing and therefore plainly does not meet the rule 60.02 requirements. *See Frazier*, 811 N.W.2d at 631 (“[T]he moving party must show that the new evidence was not discovered until after trial, and could not have been discovered before trial by the exercise of reasonable diligence.” (quotation omitted)); *Swanson v.*

² In the briefing for this appeal, Villanueva also provided evidence of a second Bloomington police report from March 2025. Because this report was not considered by the district court, it is not part of the record, and we cannot properly consider it on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988) (“An appellate court may not base its decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence below.”); *see* Minn. R. Civ. App. P. 110.01 (defining the record on appeal).

Williams, 228 N.W.2d 860, 862 (Minn. 1975) (stating that newly discovered evidence under rule 60.02 must not have been “known to the party at [the] time” of the hearing).

With respect to the 2025 Bloomington Police incident report number, the district court again found it was not newly discovered evidence under rule 60.02 because Villanueva provided too little information to establish its relevance to the allegations in the OFP. Although postdecision evidence can be admitted as newly discovered evidence, it still must meet the *Frazier* standard. *See Bender v. Bernhard*, 971 N.W.2d 257, 265-66 (Minn. 2022). Without any evidence detailing the police encounter, we agree with the district court that the incident report number is not sufficiently relevant to be considered new evidence. And even if a more complete report had been submitted to the district court, *Frazier* requires that newly discovered evidence be more than “impeaching.” 811 N.W.2d at 631. Villanueva stated that the evidence contradicts Rosario’s claims that she fears Villanueva and instead shows that she engages in “ongoing harassment” against him. Such attacks on a party’s credibility are not a proper purpose for receiving newly discovered evidence under *Frazier*. *Id.*

We therefore conclude that the district court did not abuse its discretion in denying the motions to vacate.

III

Finally, Villanueva argues that the district court violated his due-process rights. He maintains that the district court referee who conducted the hearing was biased against him and that he was denied the right to a fair hearing. We address both arguments in turn.

Minnesota judges are required to perform their duties “without bias or prejudice.” Minn. Code Jud. Conduct Rule 2.3(A). To be disqualifying, such bias or prejudice “must stem from an extrajudicial source,” resulting in an opinion “on some basis other than what the judge learned from [their] participation in the case.” *In re Est. of Lange*, 398 N.W.2d 569, 573 (Minn. App. 1986). Adverse rulings alone do not constitute bias. *Olson v. Olson*, 392 N.W.2d 338, 341 (Minn. App. 1986). Potential violations of the Code of Judicial Conduct are reviewed de novo. *State v. Dorsey*, 701 N.W.2d 238, 246 (Minn. 2005).

Villanueva argues that the referee rushed through the evidentiary hearing and was dismissive about the impact of the OFP, particularly regarding the ban on owning firearms. We disagree with his characterization of the record. With regard to the pace of the proceedings, the referee attempted to refocus Villanueva’s questioning of a witness, saying, “Mr. Villanueva, it is 11:30. We have a hearing at noon. How much time do you want to spend asking [the witness] these types of questions?” This comment does not demonstrate bias or prejudice. Rather, it reflects the court performing its role in “exercis[ing] reasonable control over the mode . . . of interrogating witnesses” so as to “avoid needless consumption of time.” Minn. R. Evid. 611.

As to the loss of firearm rights, the court was professional and measured in its comments. The following discussion on the record reveals that the referee was simply explaining the terms of the OFP.

THE COURT: If we do issue the order for protection, Mr. Villanueva, there is a prohibition for firearms and ammunition. Do you own any firearms?

MR. VILLANUEVA: No, I do not.

THE COURT: All right. So if you don't own any, we have your sworn testimony under oath today that you don't own any. If the order does get issued, it will be in place until 2027. So make sure that you don't go out and acquire any firearms or ammunition during that time if the order gets issued.

Although these terms are unfavorable to Villanueva, an adverse outcome is not sufficient to show bias or prejudice. *See Olson*, 392 N.W. 2d at 341. Because the examples Villanueva points to do not demonstrate that the district court was biased in its decision-making, we decline to reverse the OFP on these grounds.

Villanueva also argues that he did not receive a fair hearing because he did not have a meaningful opportunity to be heard and did not receive neutral treatment as a self-represented litigant. We discern no basis in the record to support his claims. Villanueva defended his position at an OFP evidentiary hearing where he testified, presented evidence, and cross-examined witnesses. He also received assistance from the district court throughout the proceedings. For example, the district court instructed him on how to make a proper objection and offer evidence and helped him locate his exhibits. Although we acknowledge the difficulties that self-represented litigants face in navigating the justice system, self-represented litigants are still subject to the same standards as attorneys. *See Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). The district court accommodated Villanueva without depriving him of due process. We therefore decline to reverse the OFP on due process grounds.

Affirmed.