

*This opinion is nonprecedential except as provided by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
A25-0675**

In re the Matter of:

Femi Joseph Daramola,
Appellant,

vs.

the Commissioner of Human Services, et al.,
Respondents.

**Filed December 29, 2025
Affirmed
Wheelock, Judge**

Scott County District Court
File No. 70-CV-27-17647

Femi Joseph Daramola, Champlin, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Brian M. Card, Assistant Attorney General, St. Paul,
Minnesota (for respondents)

Considered and decided by Reyes, Presiding Judge; Wheelock, Judge; and Kirk,
Judge.*

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

NONPRECEDENTIAL OPINION

WHEELLOCK, Judge

Appellant challenges a district court order dismissing his appeal of a maltreatment determination for failure to timely serve respondent commissioner, arguing that equitable tolling should apply. Because the district court did not abuse its discretion in not granting equitable relief, we affirm.

FACTS

Self-represented appellant Femi Joseph Daramola appeals from the district court's order granting respondent Minnesota Commissioner of Human Services's motion to dismiss Daramola's appeal for untimely service. Daramola submitted an informal brief pursuant to Minn. R. Civ. App. P. 128.01, subd. 1.

In January 2023, Daramola was working an overnight shift as a mental-health specialist at a group home in Scott County. A vulnerable adult resident required supervision at all times to ensure her safety. During a shift when Daramola was assigned as her overnight staff, the vulnerable adult ingested windshield-washer fluid, requiring subsequent hospitalization and dialysis treatment.

Respondent Minnesota Department of Human Services determined that Daramola failed to conduct proper checks and provide proper supervision of the vulnerable adult, and it informed him that it had determined he maltreated a vulnerable adult by neglect as defined in Minn. Stat. § 626.5572, subd. 17 (2024). Daramola requested reconsideration, and the department upheld its determination. Daramola appealed, and a fair hearing was

held before a human-services judge (HSJ) pursuant to Minn. Stat. § 256.045, subd. 3(a) (2024).

The HSJ recommended that the commissioner affirm the department's determination. Daramola requested reconsideration and, at the same time, filed a certiorari appeal in this court. In a special term order filed on August 6, 2024, this court dismissed the certiorari appeal, stating that, because judicial review was available in the district court, Daramola could not seek review by certiorari appeal. *Daramola v. Dep't of Hum. Servs.*, No. A24-1105 (Minn. App. Aug. 6, 2024) (order).

On October 3, 2024, the commissioner issued its final denial of Daramola's request for reconsideration. The denial included a page titled, "FURTHER APPEAL RIGHTS," which stated, "If you disagree . . . you may start an appeal in the district court . . . within 30 days of the date of this decision." Instead of filing in the district court, Daramola filed a second certiorari appeal in this court. This court then issued an order dismissing the second certiorari appeal, again explaining that the appropriate place for review was in the district court. *Daramola v. Dep't of Hum. Servs.*, No. A24-1765 (Minn. App. Nov. 14, 2024) (order).

Daramola then filed an appeal in the district court on December 5, 2024, and delivered notice of the appeal to the commissioner. The commissioner filed a motion to dismiss the appeal as untimely because notice was not served within the statutorily prescribed 30 days. *See* Minn. Stat. § 256.045, subd. 7 (2024). Pursuant to the commissioner's motion, a hearing was held in the district court. At the hearing, Daramola

briefly addressed the timeliness issue, indicating he was confused about where to file his appeal.

The district court granted the commissioner's motion to dismiss, concluding that, under Minn. Stat. § 256.045, subd. 7, Daramola was required to serve the commissioner within 30 days of the final denial but failed to do so. Therefore, the appeal was untimely and subject to dismissal.

In its order, the district court stated that Daramola's explanation for the untimely service was not reasonable because Daramola previously had filed an improper certiorari appeal and the court of appeals had explained at that time that he was required to file in the district court. It found that the commissioner's final denial also provided clear guidance on filing with the district court.

Daramola appeals.

DECISION

As a threshold matter, the parties do not dispute that Daramola failed to serve the commissioner within the 30-day period or that dismissal was proper on that basis. *See* Minn. Stat. § 256.045, subd. 7; *see also Rued v. Comm'r of Hum. Servs.*, 13 N.W.3d 42, 44 (Minn. 2024) (holding that, when the 30-day statutory deadline for service is not met, the respondent may either waive its defense as to the limitations period or move for dismissal on that basis). Instead, Daramola asserts that the district court erred by dismissing his appeal without properly considering equitable tolling.¹ Equitable tolling is

¹ Daramola raises the issue of equitable tolling for the first time on appeal. We generally consider an argument forfeited when it is not raised in the district court. *See Thiele v. Stich*,

warranted, he argues, because of his confusion about the correct procedure for filing his appeal. Daramola argues that his case falls squarely within an equitable exception because he (a) is pro se, (b) diligently sought review, and (c) relied on “procedural advice” from the court of appeals and the department, and (d) no prejudice has been demonstrated by the commissioner. We address each argument in turn.

“Granting equitable relief is within the sound discretion of the [district] court. Only a clear abuse of that discretion will result in reversal.” *Nadeau v. County of Ramsey*, 277 N.W.2d 520, 524 (Minn. 1979); *Citizens State Bank v. Raven Trading Partners, Inc.*, 786 N.W.2d 274, 277 (Minn. 2010) (quoting *Nadeau*) (alterations omitted). Minnesota courts have not explicitly determined whether the limitations period in Minn. Stat. § 256.045, subd. 7, is subject to equitable tolling, but we need not make that determination here because Daramola is not entitled to relief under the doctrine, even if it is available. *See Sanchez v. State*, 816 N.W.2d 550, 560-61 (Minn. 2012) (declining to reach the question when the appellant did not establish entitlement to the equitable relief).

“The doctrine of equitable tolling allows a court to consider the merits of a claim when it would otherwise be barred.” *Id.* at 560. This standard is “necessarily a high one.” *Id.* at 561. The supreme court has identified circumstances in which equitable tolling may be permitted: when the plaintiff can show that they were prevented from timely filing by “paramount authority” or circumstances completely out of the plaintiff’s control; or when

425 N.W.2d 580, 582-83 (Minn. 1988). However, because the district court’s order construed Daramola’s explanation of being confused about where to file as a request for equitable relief, we address his argument.

the defendant engaged in fraudulent concealment of the cause of action such that even a diligent plaintiff would not have known about their claim. *Id.* (outlining when equitable tolling has been applied in civil cases).

“Innocent inadvertence” is not sufficient to toll a limitations period. *Jones v. Consol. Freightways Corp.*, 364 N.W.2d 426, 429-30 (Minn. App. 1985) (noting that the appellant was provided with the relevant statutes and sufficient notice to apprise him of his right to commence an action). Prejudice to the opposing party is one factor the district court considers, but the court also examines the conduct of the party requesting equitable tolling. *Ochs v. Streater, Inc.*, 568 N.W.2d 858, 860 (Minn. App. 1997). In *Ochs*, this court determined there was no basis for equitable tolling when the appellant offered no evidence that circumstances beyond his control prohibited him from serving his complaint in the statutory time period. *Id.*

Daramola does not assert that any fraud, circumstances beyond his control, or “paramount authority” prevented him from timely serving the notice required. *Sanchez*, 816 N.W.2d at 561. At most, Daramola asserts “innocent inadvertence” due to “procedural complexities and pro se status.” But this is not enough to establish entitlement to the equitable relief he seeks. *See Jones*, 364 N.W.2d at 429-30. Furthermore, although Daramola asserts that he was reasonably confused because he is pro se, he offers no legal argument as to how his pro se status prevented timely service of the notice of appeal.²

² Alternatively, Daramola argues public policy requires that we direct the district court to hear his appeal. Because we conclude this argument was forfeited, we do not address it. *See Thiele*, 425 N.W.2d at 582-83.

When reviewing the arguments of self-represented parties, appellate courts provide “some leeway” to the self-represented party who is “attempting to comply with court rules.” *Carpenter v. Woodvale, Inc.*, 400 N.W.2d 727, 729 (Minn. 1987). But this court has also repeatedly emphasized that self-represented litigants are generally held to the same standards as attorneys. *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Daramola provides no authority to support his argument that not complying with service requirements falls within the leeway we allow for self-represented parties.

Daramola argues that filing a petition for certiorari with the court of appeals within the statutory timeframe demonstrates that he diligently sought review. Daramola’s argument misunderstands the reason the district court dismissed his appeal. The district court dismissed his appeal because Daramola failed to serve the proper parties within 30 days.³ Furthermore, the commissioner did not challenge the date of filing of Daramola’s second certiorari appeal—November 7, 2024; rather, it argued that Daramola did not file proof of service at that time.

Assuming the commissioner’s final denial was mailed and allowing an additional three days for mailing, it appears that the last day of the 30-day period for Daramola to serve his notice of appeal was November 7, 2024. *See* Minn. R. Civ. P. 6.01(a)(1), (e). Accordingly, even if this court were to grant relief on the basis that he was confused about

³ This court has held that the 30-day time limit in Minn. Stat. § 256.045, subd. 7, does not refer to filing with the district court. *Chorolec v. Comm’r of Dep’t of Hum. Servs.*, 990 N.W.2d 474, 476-77 (Minn. App. 2023).

the correct court in which to file, it would not remedy his failure to serve the proper parties within the statutory 30-day time period.

Next, Daramola says he relied on “procedural advice” from the court of appeals and the department. The record reflects the opposite. The dismissal order this court issued in his first certiorari appeal stated, “Daramola may seek review of the commissioner’s order on reconsideration by appealing the order *to the district court*.” (Emphasis added.) The dismissal order from his second certiorari appeal in this court contained a similar statement. The commissioner’s final denial also directed Daramola to file any appeal in the district court and stated that he must “start this proceeding by serving a written copy of a notice of appeal upon the Commissioner.” It also identified the applicable statute.

Finally, Daramola asserts that the commissioner has not demonstrated prejudice. But lack of prejudice alone does not warrant equitable tolling when, like here, the appellant offered no evidence that circumstances beyond his control prohibited him from timely serving the notice. *See Ochs*, 568 N.W.2d at 860.

We therefore conclude that the district court did not abuse its discretion when it rejected Daramola’s equitable-relief argument to excuse his failure to timely serve the notice of appeal as required by Minn. Stat. § 256.045, subd. 7.

Affirmed.