

*This opinion is nonprecedential except as provided by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
A25-0815**

In Re the Matter of:

Reuben Lopez Avery, petitioner,
Appellant,

vs.

Teri Joanne Avery,
Respondent.

**Filed April 20, 2026
Affirmed
Cochran, Judge**

Jackson County District Court
File No. 32-FA-24-41

Reuben Lopez Avery, St. Paul, Minnesota (pro se appellant)

Teri Joanne Avery, Minneapolis, Minnesota (pro se respondent)

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and Segal,
Judge.*

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant father challenges the district court's order granting respondent mother's motion to relocate out of the state with their children. We affirm.

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

FACTS

Appellant Reuben Lopez Avery (father) and respondent Teri Joanne Avery (mother) are the parents of two minor children. The parties were divorced in 2018 pursuant to stipulated findings of fact, conclusions of law, order for judgment, and judgment and decree. Under the judgment and decree, father and mother share joint legal custody and joint physical custody of the children. The judgment and decree provides that neither parent “is granted the right to move the residence of [the children] from the State of Minnesota except upon order of the Court or with the consent of the other party.” Father and mother also agreed that if either party sought to move the children out of state, the district court would apply the statutory best-interests standard. *See* Minn. Stat. § 518.175, subd. 3 (2024) (governing a custodial parent’s relocation of a child to another state, and listing relocation-related best interests considerations).

In May 2024, mother moved from Minnesota to Iowa with the children. Father did not consent to the move. Father requested that the district court find mother in contempt for relocating without his consent or a court order. Father then moved for a change of custody and for an order compelling mother to return the children to Minnesota. Mother also moved for a change of custody.

In October 2024, the district court held a hearing on the parties’ cross-motions to modify custody and on father’s motion to hold mother in contempt. The district court found mother in civil constructive contempt of court for relocating with the children without father’s consent or a court order. The district court further ordered mother to file a motion to support her request to relocate the children out of the state and specified that

the motion be based on the best-interests factors. The district court also denied both modification requests.

In January 2025, mother filed a motion to relocate the children from Minnesota to Iowa. Mother stated that she believed it would be in the best interests of the children to live in Iowa. She indicated that, in Iowa, each child had their own bedroom, attended a good school, and had friends. And mother also claimed that relocating is in the children's best interests because she "support[s] them" "mentally[,] emotionally, physically, and educationally." She also alleged that father did not provide the same support for the children.

Following an evidentiary hearing, the district court filed an order granting mother's relocation motion. In support of its decision, the district court made numerous factual findings, including that mother "is the protected party and [f]ather is the defendant in a protective order in" an Iowa court file issued on June 25, 2024. The district court also noted that the Iowa order specifically stated that the Iowa court "attempted to make arrangements with [f]ather to facilitate contact with the minor children but that he 'refused to do so.'" The district court then analyzed the best-interests factors articulated in Minnesota Statutes section 518.175, subdivision 3. Based on its analysis, the district court determined that it was in the best interests of the children to allow mother to relocate with the children to Iowa. In reaching its decision, the district court noted that "[f]ather's

concerns regarding the relocation do not contemplate the [c]hildren's best interests." The district court therefore granted mother's motion and purged her civil contempt.¹

Father appeals.²

DECISION

Father seeks reversal of the district court's order permitting mother to relocate the children to Iowa. Father is a self-represented litigant. "Although some accommodations may be made for [self-represented] litigants, this court has repeatedly emphasized that [self-represented] litigants are generally held to the same standards as attorneys and must comply with court rules." *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Self-represented litigants, like those represented by counsel, must support their claims with "either arguments or citations to legal authority." *State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008). And "[s]ummary arguments made without citation to legal support are waived." *Fannie Mae v. Heather Apartments Ltd. P'ship*, 811 N.W.2d 596, 600 n.2 (Minn. 2012). Further, we may decline to address inadequately briefed questions. *State, Dep't of Labor & Indus. v. Wintz Parcel Drivers*,

¹ The parties continue to litigate their dispute in district court. In this appeal, father references proceedings that have occurred since the district court's March 27, 2025 order. Because the relevant order on appeal is the March 27, 2025 order granting mother's request to relocate, later proceedings are outside the scope of our review. *See* Minn. R. Civ. App. P. 110.01 (stating that the record on appeal consists of "the documents filed in the [district] court, the exhibits, and the transcript of the proceedings, if any").

² Mother did not file a response and we ordered the matter to proceed on the merits pursuant to Minn. R. Civ. App. P. 142.03.

Inc., 558 N.W.2d 480, 480 (Minn. 1997); *Brodsky v. Brodsky*, 733 N.W.2d 471, 479 (Minn. App. 2007) (applying *Wintz* in a family-law appeal).

With these principles in mind, we consider the numerous arguments raised by father on appeal. Father argues that the district court: (1) accepted improper filings and issued orders without prior notice; (2) excluded testimony from his witnesses; (3) improperly relied on court documents from other proceedings without judicial notice; (4) engaged in judicial advocacy; (5) engaged in “coordination” with mother; (6) refused to accept certain filings by father; and (7) did not ensure his exhibits were properly uploaded into the Minnesota Digital Exhibit System (MNDES). Father engages in little or no legal analysis in support of each of his arguments, devoting only one paragraph to each argument. For the reasons explained below, we conclude that father’s arguments do not support reversal of the district court’s order granting mother’s motion to relocate the children to Iowa.

I. Improper Filings and Lack of Adequate Notice

Father seems to argue that the district court erred by accepting improper filings from mother and issuing scheduling orders without proper notice, thereby violating his due process rights. However, father does not provide any legal authority to support his argument. Nor does he provide citations to the record to support his factual assertions. As stated above, we need not address inadequately briefed arguments. *Wintz*, 558 N.W.2d at 480 (declining to review questions that were not adequately briefed). Because father’s argument about improper filings and lack of adequate notice is too general to allow for meaningful appellate review, we consider the argument forfeited.

II. Father's Witnesses

Father claims the district court excluded testimony from his probation officer and a psychologist “without justification” in violation of his due-process rights. We disagree.

It is the responsibility of the party to secure witnesses. *See Reikow v. Bituminous Const. Co.*, 224 N.W.2d 921, 926 (Minn. 1974) (recognizing that it is the duty of the party or the party's counsel to have witnesses available for court proceedings); *see also State v. Collins*, 150 N.W.2d 850, 859 (Minn. 1967) (“[T]he parties and their counsel have the primary responsibility for finding, selecting, and presenting the evidence, and it is generally held that the trial court has no affirmative duty to call a witness on its own initiative.”). And a court need not delay proceedings to allow a party to secure a witness's testimony. *Reikow*, 224 N.W.2d at 925.

Here, father filed a witness list in February 2025. The list contained four witnesses whom he wished to call at the March 4, 2025 evidentiary hearing. However, father did not have his witnesses available at the March 2025 evidentiary hearing. The district court asked father if he had any witnesses present whom he wished to call to testify. Father responded, “No, there's no witnesses here.” The record therefore shows that the district court gave father the opportunity to call witnesses at the hearing, but that father did not have any witnesses available. Because father had the responsibility to secure his witnesses for the March 2025 hearing but failed to do so, there is no legal basis on which to conclude

that the district court violated father's due-process rights regarding the presentation of witness testimony.³

III. Reliance on Court Documents from Prior Proceedings

Father challenges the district court's reliance on "prior civil and criminal cases not in evidence." Father asserts that the district court took "improper judicial notice" of documents from prior judicial proceedings, but father fails to identify the specific proceedings or documents. Based on our review of the record before the district court, we conclude this argument is unavailing.

We interpret father's argument to focus on the October 2024 evidentiary hearing at which the district court addressed mother's motion to relocate the children. During that hearing, the district court referenced an Iowa order for protection (OFP). The record on appeal reflects that an Iowa OFP was part of the record in this case when the district court heard mother's motion to relocate the children. *See* Minn. R. Civ. App. P. 110.01 ("The documents filed in the trial court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases."). The OFP was filed with the district court in September 2024, prior to the October 2024 hearing. Thus, to the extent father's argument relates to the Iowa OFP, the district court was not required to take judicial notice of the document because the OFP was already in the record in this court file. *See id.* And, to the extent that father was referring to other documents, we cannot address father's

³ To the extent father complains that the district court did not allow his witnesses to appear by a virtual hearing as he requested, we deem that argument forfeited because father failed to appear at a February 2025 hearing where this request was scheduled to be addressed.

arguments because he has failed to identify those documents for us. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (deeming inadequately briefed issue to be forfeited); *see also In re Irwin*, 529 N.W.2d 366, 373 (Minn. App. 1995) (holding that where appellant fails to specifically identify exhibits to which he objects, inadequate brief results in forfeiture of issue), *rev. denied* (Minn. May 16, 1995).

IV. Judicial Advocacy and Interference

Father next claims the district court judge engaged in judicial advocacy, violating father’s constitutional rights and the Minnesota Code of Judicial Conduct. We disagree.

Litigants are entitled to a fair and impartial judge. *State v. Duol*, 25 N.W.3d 135, 141 (Minn. 2025); *see* U.S. Const. amend. XIV; Minn. Const. art. 1, § 7. Minnesota judges must perform their duties “impartially, competently, and diligently.” Minn. Code Jud. Conduct Canon 2; *see also* rule 2.2 (providing a judge “shall perform all duties of judicial office fairly and impartially”). Additionally, judges must perform their duties “without bias or prejudice.” Minn. Code Jud. Conduct Rule 2.3(A). If an appellant has been deprived of the constitutional right to an impartial judge, the error is a structural error, which requires reversal and remand without regard for whether the appellant was prejudiced by the error.⁴ *State v. Dorsey*, 701 N.W.2d 238, 253 (Minn. 2005). Questions of whether a defendant’s “right to a fair trial” and “[w]hether a judge has violated the Code of Judicial Conduct” are both questions of law that appellate courts review de novo. *Id.* at 246, 249.

⁴ For purposes of this appeal, we assume—without deciding—that the structural error doctrine applies in this noncriminal proceeding.

Father asserts that the district court judge displayed partiality by interrupting father's testimony during the March 2025 hearing. The record does not support his claim. It is true that the judge periodically interrupted father to ask clarifying questions or to remind father to stay focused on the relevant issues before the court. But these interjections do not amount to partial or prejudicial conduct on the part of the judge. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) (noting that “judicial remarks during the course of a [proceeding] that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge”); *see also Byers v. Comm’r of Revenue*, 735 N.W.2d 671, 673 (Minn. 2007) (citing *Liteky*). And “[t]he mere fact that a party declares a judge partial does not in itself generate a reasonable question as to the judge’s impartiality.” *State v. Reek*, 942 N.W.2d 148, 156 (Minn. 2020) (quotation omitted). Because the record does not support father’s claim of judicial advocacy and interference, we reject this argument.

V. Alleged Coordination between the Judge and Mother

Father claims the district court “coordinat[ed]” with mother in violation of the Code of Judicial Conduct. Again, we are not persuaded. In support of his argument, father points to transcripts from hearings in January and February 2025. The January hearing related to father’s motion to find mother in contempt. The February hearing was a short hearing at which father failed to appear. Based on our review of the record, we do not discern any improper conduct by the district court judge at these hearings. We therefore decline to grant father relief on this claim.

VI. Rejection of Evidence

Father argues that the district court violated his rights by “predetermin[ing]” that the court would reject timely evidence from father. This argument is not supported by the record. Father cites a letter filed with the court on January 27, 2025. In the letter, father references documents between December 2020 and May 2024 purporting to show that there was a sufficient change of circumstances to warrant a change of custody in favor of father. He also asked the court to allow him to raise additional issues at a hearing scheduled for the same day. The district court held a hearing on January 27, but father did not appear. The district court rescheduled the hearing but did not take any action on father’s letter at the January 27 hearing. And while father argues that the district court “refused to accept procedurally compliant filings,” there is no record evidence to support this statement and we consider this argument forfeited.

VII. MNDES Exhibits

Father argues that some of his exhibits were not entered into MNDES despite being “properly submitted and referenced” during the March 2025 evidentiary hearing. He contends “[t]his omission violates multiple procedural and constitutional protections.” This argument is unavailing.

“Parties and attorneys must use MNDES for the submission of all electronic (digital) exhibits, including documents, photographs, audio files, and video files[.]” *Order Regarding Use of the Minnesota Digital Exhibit System In Minnesota District and Appellate Courts*, No. ADM09-8010 (Minn. Aug. 30, 2024) (MNDES Order). Exhibits in MNDES offered in court proceedings are considered case records. *Id.* However,

“[e]xhibits uploaded and stored in MNDES but not offered to the court (those exhibits in ‘pre-hearing status’) are not case records of the Minnesota Judicial Branch as defined in the Rules of Public Access and are not publicly accessible.” *Id.*

Here, father maintains that he presented exhibits at the evidentiary hearing but that those exhibits were not marked as offered and admitted in MNDES. However, father has not identified any specific exhibits that are missing from MNDES. And it is father’s burden to support his factual assertions with citations to the record. *Hecker v. Hecker*, 543 N.W.2d 678, 681 n.2 (Minn. App. 1996), *aff’d*, 568 N.W.2d 705 (Minn. 1997).

Moreover, father is not entitled to relief based on this argument because he has not demonstrated any resulting prejudice from the alleged MNDES errors. *See* Minn. R. Civ. P. 61 (“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.”); *see also Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949) (noting that “error without prejudice is not ground for reversal” (quotation omitted)). Here, the record demonstrates that the district court took steps to ensure no prejudice to father from any MNDES problems. The district court noted at the evidentiary hearing that father had submitted several documents into MNDES. The district court advised father that although some of his exhibits “haven’t been able to upload” to MNDES, it would accept physical copies of father’s exhibits. Accordingly, even assuming that not all of father’s exhibits were uploaded into MNDES or were not accurately recorded in MNDES as being offered and received, he has not demonstrated any resulting prejudice and therefore is not entitled to any relief on this basis.

In sum, father has not demonstrated any legal basis to support reversal of the district court's order granting mother's motion to relocate the children.

Affirmed.