

*This opinion is nonprecedential except as provided by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
A25-0880**

In re the Estate of Frank E. Messin, Deceased.

**Filed February 23, 2026
Reversed
Halbrooks, Judge***

Washington County District Court
File No. 82-PR-25-402

John R. Neve, John Hayden, Quantum Lex PA, Minneapolis, Minnesota (for appellant Sheila Anderson)

Erik J. Honkanen, Honkanen Law Firm, S.C., Virginia, Minnesota (for respondent Tina M. Boril)

Considered and decided by Ede, Presiding Judge; Larson, Judge; and Halbrooks, Judge.

NONPRECEDENTIAL OPINION

HALBROOKS, Judge

Appellant, daughter of decedent Frank E. Messin, challenges a Washington County District Court order granting respondent's petition for adjudication of intestacy, determination of heirs, and appointment of personal representative. Because we conclude that the district court erred by finding that venue for the formal testacy proceedings was proper in Washington County, we reverse.

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

FACTS

The parties dispute the material facts of this appeal. Respondent Tina M. Boril alleges as follows. In 2009, Boril sued decedent individually and in his capacity as trustee to compel trust payments based on his son's failure to pay a child-support obligation to Boril. In 2010, the parties executed a settlement agreement in which decedent's son assigned to Boril his interest in decedent's irrevocable trust in the amount of \$100,000. The terms of the agreement specified that the \$100,000 would only become payable upon decedent's death. Boril agreed to release all claims against decedent, and her suit was dismissed without prejudice.

Decedent died on October 5, 2023. Boril alleges that appellant Sheila Anderson, the current trustee of decedent's irrevocable trust, failed to pay her the \$100,000 owed under the 2010 settlement agreement. Boril moved for entry of judgment against the trust in a separate action in Chisago County. Boril alleges that decedent's estate may need to indemnify the pending trust litigation and, thus, sought to have a personal representative appointed to decedent's estate so that it could be joined with the pending trust litigation.

Boril filed a petition for formal adjudication of intestacy, determination of heirs, and appointment of personal representative. In her petition, Boril alleged that she has a legal interest in decedent's estate because she is a beneficiary of the decedent's irrevocable trust. Boril also alleged that she believed that decedent owned property and was domiciled in Washington County at the time of his death. Anderson filed an objection to the petition in which she denied that decedent owned property or was domiciled in Washington County

at the time of his death and asserted, among other claims, that venue was improper in Washington County.

The district court held a hearing on Boril's petition. Both Anderson and Boril were present and represented by counsel. The parties' counsel presented oral arguments on the petition. Neither party called witnesses nor sought to introduce evidence into the record. The district court ordered briefing and took the matter under advisement.

After the hearing, Boril filed a proposed order, and her attorney filed an affidavit in support. Her attorney's affidavit attached two exhibits: the Certificate of Trust that was incorporated into the 2010 settlement agreement between decedent and Boril and the Certificate of Trust executed by Anderson as successor trustee. No other exhibits were attached. Anderson filed a memorandum of law and an affidavit in support of her objection to the petition. Anderson's affidavit stated, in relevant part, that decedent was domiciled in Florida at the time of his death and that decedent did not personally own property in Minnesota.

The district court granted Boril's petition. In its order, the district court found that decedent was domiciled in or owned property in Washington County, concluded that venue was proper in Washington County, and appointed a third-party personal representative to decedent's estate.

This appeal follows.

DECISION

Anderson argues that the district court erred by determining that venue was proper in Washington County based on its finding that decedent was domiciled in or owned property in the county.¹

The Minnesota Uniform Probate Code provides that venue for the first formal testacy or appointment proceedings is proper “(1) in the county of the decedent’s domicile at the time of death; or (2) if the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of death.” Minn. Stat. § 524.3-201(a) (2024).

The venue determination in this case turns on the district court’s factual findings that Messin was domiciled in or owned property in Washington County. This court reviews the district court’s factual findings for clear error. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013). Findings of fact are clearly erroneous if “they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). “If there is reasonable evidence to support the trial court’s findings of fact, a reviewing court should not disturb those findings.” *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999). “We will not

¹ Anderson also argues on appeal that the district court erred by determining that decedent died intestate, that Boril was an interested person, that Boril stated a claim upon which relief could be granted, and by appointing a third-party representative. Because we resolve Anderson’s appeal solely on the venue issue, we need not consider Anderson’s other arguments.

conclude that a fact[-]finder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed.” *Kenney*, 963 N.W.2d at 221 (quotations omitted).

The district court determined that venue was proper in Washington County based on its findings that decedent maintained a residence and was domiciled in Forest Lake, Minnesota, “or otherwise owned property or held assets in Minnesota” at the time of his death. But the district court also found that decedent’s Forest Lake residence was an asset of his revocable trust. Anderson contends that the district court’s findings are erroneous because they are contrary to evidence that decedent was a domiciliary and resident of Florida at the time of his death. Additionally, Anderson contends that the district court’s venue determination could not be based on property ownership because decedent’s Forest Lake residence was titled and held in trust. We agree with Anderson that the district court’s finding that decedent was domiciled in or owned property in Washington County is not supported by the record.

The only evidence in the record relevant to whether decedent was domiciled in or owned property in Washington County is Anderson’s affidavit. Anderson’s affidavit states that decedent was a domiciliary and resident of Florida at the time of his death. Additionally, Anderson’s affidavit states that decedent did not personally own any property in Washington County at the time of his death because “[a]ll real property in Minnesota was titled and held in [decedent’s] Revocable Trust.”

Boril presented no evidence contrary to Anderson’s declarations. Boril only alleged in her petition that she believed decedent was domiciled in or owned property in

Washington County. But Boril's petition was never entered into the record as evidence. *See In re Welfare of Child of H.G.D.*, 962 N.W.2d 861, 872 (Minn. 2021) (citing Minn. R. Evid. 402) (allegations in petition were not evidence because petition not offered or admitted into evidence). Boril attached no exhibits to her petition to support her belief that decedent was domiciled in or owned property in Washington County at the time of his death. And at the petition hearing, Boril did not testify, present any witness testimony, or introduce any evidence to support the allegations in her petition. *See id.* (petitioner's allegations would be unproven if petitioner failed to offer evidence, but unrefuted testimony demonstrated allegations in petition were true and correct). We therefore conclude that the district court clearly erred by finding that decedent was domiciled in or owned property in Washington County because it is unsupported by any evidence in the record. *See Kenney*, 963 N.W.2d at 221.

Thus, because the district court's conclusion was based on an erroneous factual finding that decedent was domiciled in or owned property in Washington County, the district court erred by determining that venue was proper in Washington County.

Reversed.