

*This opinion is nonprecedential except as provided by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
A25-1489**

In re the Matter of:

Lawanna Latrice Payton, petitioner,
Appellant,

vs.

Cavaris Valdez Mills,
Respondent,

Otesha Payton,
Respondent Below.

**Filed June 29, 2026
Affirmed
Rasmusson, Judge**

Hennepin County District Court
File No. 27-FA-25-2941

Lawanna Payton, Houston, Texas (self-represented appellant)

Cavaris Mills, Columbus, Ohio (self-represented respondent)

Considered and decided by Johnson, Presiding Judge; Bond, Judge; and Rasmusson,
Judge.

NONPRECEDENTIAL OPINION

RASMUSSEN, Judge

Appellant argues that the district court erred when it dismissed her petition for third-party custody without an evidentiary hearing. Because appellant failed to demonstrate reversible error in the district court's order, we affirm.

FACTS

This case concerns the custody of C.M., born in 2015. C.M. is the son of Otesha Payton (mother) and respondent Cavaris Valdez Mills (father). Mother and father lived together in Texas until C.M. was about seven years old. After the parents separated, father moved to Ohio while mother remained in Texas with C.M. Appellant Lawanna Latrice Payton, C.M.'s maternal aunt, also lived in Texas and assisted in caring for C.M. The record suggests that Payton lived with mother and C.M. after father moved to Ohio.

Around the middle of 2023, mother and C.M. relocated to Minnesota to care for an elderly relative while Payton remained in Texas. Mother died in April 2025 after living in Minnesota with C.M. for approximately one year and ten months. In a separate file, the district court granted father sole legal and sole physical custody of C.M. over Payton's objection. Although the district court orally awarded father sole legal and sole physical custody on April 28, C.M. was allowed to remain in Minnesota to complete the school year.

Nearly a month later, Payton filed a petition for third-party custody as an interested third party. The petition claimed that father has "abandoned, neglected, or otherwise shown a disregard for [C.M.'s] wellbeing and that [C.M.] would be harmed by living with

[father]” because he “was absent for over two years of [C.M.’s life],” did not initiate visits or communication, and lacks understanding of C.M.’s special needs. Payton also stated that she helped raise C.M. in Texas and “continued to support them from afar after they relocated to Minnesota.” She additionally argued that awarding custody to her was in C.M.’s best interests.

The parties appeared for an initial, nonevidentiary hearing on the petition. Following the hearing, the district court denied Payton’s request for an evidentiary hearing and dismissed her third-party petition for custody for failure to allege a prima facie case.

Payton appeals.¹

DECISION

I. Legal Background

Individuals who are not the parent of a particular child are authorized by statute to petition for third-party custody as either a de facto custodian or an interested third party. *See* Minn. Stat. §§ 257C.01-.05 (2024); *Lewis-Miller v. Ross*, 710 N.W.2d 565, 568-70 (Minn. 2006). Payton petitioned as an interested third party. To succeed in a custody action as an interested third party, and relevant to this appeal, Payton must establish “by clear and convincing evidence” one of three child-endangerment factors in Minn. Stat. § 257C.03, subd. 7(a)(1), and “by a preponderance of the evidence that it is in the best interests of the child” to be in her custody. Minn. Stat. § 257C.03, subd. 7(a).

¹ Father did not file a response brief. We therefore decide this case on the merits as provided in Minn. R. Civ. App. P. 142.03.

Third-party custody cases proceed in two stages. *Lewis-Miller*, 710 N.W.2d at 569-70. First, a petitioner must allege a prima facie case, stating facts which, if true, establish that the person is an interested third party as defined in section 257C.03, subdivision 7(a). *Id.* at 570. If the petitioner fails to allege a prima facie case, then the district court may dismiss the petition without holding an evidentiary hearing. *Id.*; *see also* Minn. Stat. § 257C.03, subd. 8. But if the petitioner alleges sufficient facts, “which, if prove[d], would satisfy the statutory criteria, the court would then schedule an evidentiary hearing.” *Lewis-Miller*, 710 N.W.2d at 569.

In evaluating whether a petitioner alleges a prima facie case for third-party custody, a district court is required to accept the petitioner’s allegations as true and disregard contrary allegations. *See Boland v. Murtha*, 800 N.W.2d 179, 183 (Minn. App. 2011) (applying a prima facie case analysis to a motion to restrict parenting time). However, a district court may consider submissions from the opposing party to contextualize the moving party’s assertions. *See id.* Conclusory allegations are insufficient to create a prima facie case. *See Szarzynski v. Szarzynski*, 732 N.W.2d 285, 292 (Minn. App. 2007) (considering whether a party made a prima facie case to modify custody based on an endangerment allegation).

II. Standard of Review

We use a three-part process to review the dismissal of a petition for third-party custody without an evidentiary hearing. We review (1) de novo whether the district court properly viewed the moving party’s allegations, as set forth in the petition and accompanying affidavit, as true; (2) for an abuse of discretion the district court’s

determination as to whether the moving party alleged a prima facie case for third-party custody; and (3) de novo whether an evidentiary hearing is required. *See Boland*, 800 N.W.2d at 185.

III. Analysis

Payton argues that her petition and supporting affidavit present a prima facie case sufficient to require an evidentiary hearing.² We disagree.

First, we review de novo whether the district court properly considered Payton's allegations, as set forth in the petition and supporting affidavit, as true. Payton's specific allegations are detailed below. The district court accepted those allegations as true before examining the sufficiency of Payton's claims. Therefore, the district court did not err in that portion of its analysis.

Second, we consider whether the district court abused its discretion in determining that Payton failed to allege a prima facie case for third-party custody because she did not plead facts sufficient to prove any of the child-endangerment factors. The three child-endangerment factors are:

² As a threshold issue, Payton contends that vacatur of the district court's order is required because orders are void when issued with a deceased party's name absent proper substitution. Payton, as the party alleging error, bears the burden of demonstrating error in the district court's decision. *White v. Minn. Dep't of Nat. Res.*, 567 N.W.2d 724, 734 (Minn. App. 1997).

In making this argument, Payton relies on Minn. R. Civ. P. 25.01(a). Payton's reliance on this rule is misguided because it merely establishes a mechanism for substituting another party to take the place of a decedent in a lawsuit. *See* Minn. R. Civ. P. 25.01(a). Critically, none of the cases Payton relies upon state that an action becomes void under the circumstances alleged in this case, nor do they address rule 25.01. *See Chan v. Katzenmeyer*, 391 N.W.2d 907, 909 (Minn. App. 1986); *Hengel v. Hyatt*, 252 N.W.2d 105, 106 (Minn. 1977).

- (i) the parent has abandoned, neglected, or otherwise exhibited disregard for the child's well-being to the extent that the child will be harmed by living with the parent;
- (ii) placement of the child with the individual takes priority over preserving the day-to-day parent-child relationship because of the presence of physical or emotional danger to the child, or both; or
- (iii) other extraordinary circumstances [exist].

Minn. Stat. § 257C.03, subd. 7(a)(1).³

In her petition and accompanying affidavit, Payton alleged the following: (1) father was absent for two years and all visits and communication were facilitated by mother; (2) father rejected the idea that C.M. has special needs and this rejection would cause C.M. emotional harm; (3) removing C.M. from his “stable and secure caregiving environment . . . would pose serious emotional and developmental harm”; and (4) C.M. was injured in father's care in 2021. The district court determined that, even if accepted as true, Payton's allegations were insufficient to prove child endangerment. We agree.

Payton's initial allegation acknowledges that father remained in contact with C.M., contrary to her assertion of abandonment. Payton's second and third allegations are conclusory and unsupported by specific information. Finally, Payton's assertion that C.M. was injured in an accident in father's care does not allege sufficient facts that C.M. will suffer ongoing harm by living with father, that this incident overcomes the priority of preserving the parent-child relationship, or any other extraordinary circumstances. In

³ Minn. Stat. § 257C.01, subd. 3, defines an “interested third party” as one who “can prove that at least one of the factors in section 257C.03, subdivision 7, paragraph (a), is met.”

short, on this record, we discern no abuse of discretion in the district court's determination that Payton failed to allege a prima facie case for third-party custody.

Finally, we review de novo whether an evidentiary hearing is required. Payton is only entitled to an evidentiary hearing if she alleges a prima facie case for third-party custody, which did not occur. Thus, the district court's refusal to hold an evidentiary hearing was not an abuse of its discretion.

Because we conclude that the district court did not err in denying an evidentiary hearing and dismissing Payton's custody petition for failure to allege a prima facie case of child endangerment, we need not address Payton's assertion that the district court failed to individually address each best-interest factor.⁴

Affirmed.

⁴ Payton additionally alleges that (1) the record contradicts certain provisions in the order, (2) the district court failed to grant her request for a guardian ad litem, and (3) the district court improperly gave weight to certain submissions. Because Payton fails to demonstrate how these allegations are relevant to whether she alleged a prima facie case for third-party custody or that she was otherwise prejudiced by them, we decline to address them.