

*This opinion is nonprecedential except as provided by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
A25-1608**

In the Matter of the Civil Commitment of:
Kevin Boyd Nelson.

**Filed July 13, 2026
Affirmed
Florey, Judge***

Freeborn County District Court
File No. 24-PX-05-000527

Kevin Boyd Nelson, Moose Lake, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Lisa Jones, Assistant Attorney General, St. Paul, Minnesota; and

David Walker, Freeborn County Attorney, Albert Lea, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Schmidt, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

In 2005, Kevin Boyd Nelson was civilly committed by the Freeborn County District Court to the Minnesota Sex Offender Program. In 2025, Nelson brought a motion for relief from the district court's commitment order pursuant to rule 60.02 of the Minnesota Rules

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

of Civil Procedure. We conclude that the district court did not abuse its discretion by denying the motion. Therefore, we affirm.

FACTS

In April 2005, Freeborn County petitioned the district court to civilly commit Nelson as a sexually dangerous person and a sexual psychopathic personality. The district court appointed counsel to represent Nelson during his commitment proceedings. Nelson did not object to the appointment of counsel or request to represent himself at any point during the commitment proceedings. In December 2005, the district court granted the county's petition and civilly committed Nelson to the Minnesota Sex Offender Program.

In March 2025, Nelson filed a motion for relief from his commitment order pursuant to rule 60.02 of the Minnesota Rules of Civil Procedure. Nelson relied on *In re Civil Commitment of Benson*, in which the supreme court held that a committed person may move the commitment appeal panel to be allowed to waive his or her statutory right to counsel. 12 N.W.3d 711, 720-21 (Minn. 2024). Nelson argued that because he was denied an opportunity to represent himself in his commitment proceedings, the commitment order is void and no longer equitable. Nelson requested that the district court order a new civil-commitment hearing at which he could have the opportunity to waive his right to counsel. The district court denied the motion.

Nelson filed a timely appeal in which he challenged the district court's decision. This court affirmed. *See In re Civ. Commitment of Nelson*, No. A25-1608, 2026 WL 654072 (Minn. App. Mar. 3, 2026) (order). Nelson petitioned for further review. The supreme court granted his petition in part, vacated this court's opinion, and remanded for

reconsideration in light of its decision in *In re Civ. Commitment of Urbanek*, A25-0808, 2026 WL 858492 (Minn. Mar. 25, 2026) (order). *In re Civ. Commitment of Nelson*, No. A25-1608, 2026 WL 1550026 (Minn. May 27, 2026) (order). This court reinstated Nelson's appeal.

DECISION

Nelson argues that the district court erred by denying his rule 60.02 motion for relief.

The party seeking relief under rule 60.02 has the burden of proof. *City of Barnum v. Sabri*, 657 N.W.2d 201, 205 (Minn. App. 2003). "This court reviews a district court's denial of a rule 60.02 motion for an abuse of discretion." *In re Civ. Commitment of Johnson*, 931 N.W.2d 649, 655 (Minn. App. 2019), *rev. denied* (Minn. Sept. 17, 2019).

Nelson first contends that the commitment order is void because it violated his right to due process. A party may be entitled to relief from a final judgment or order if such judgment or order is "void." Minn. R. Civ. P. 60.02(d). "A judgment is void if the issuing court lacked jurisdiction over the subject matter, lacked personal jurisdiction over the parties through a failure of service that has not been waived, or acted in a manner inconsistent with due process." *Bode v. Minnesota Dep't of Nat. Res.*, 594 N.W.2d 257, 261 (Minn. App. 1999), *aff'd*, 612 N.W.2d 862 (Minn. 2000).

In this case, Nelson was represented by counsel throughout his commitment proceedings and he does not contend that his attorney's representation was deficient in any way. Additionally, Nelson provided no evidence that he requested to represent himself at

his commitment proceedings and was denied the opportunity to do so. Thus, Nelson cannot show that he was denied due process of law at his commitment proceedings.

Nelson also contends that the purported deprivation of his statutory right to self-representation at his commitment proceedings was a structural error. “Structural error is a very limited class of error, which generally requires automatic reversal” of a criminal defendant’s conviction. *State v. Bey*, 975 N.W.2d 511, 520 (Minn. 2022). But Nelson cites no binding authority for the proposition that the structural-error analysis arising in criminal cases applies to the deprivation of the statutory right to self-representation in a civil-commitment proceeding. Thus, Nelson has not established that his commitment order should be automatically reversed based on structural error.

Nelson also contends that the commitment order is no longer equitable on the grounds that *Benson* was a significant change in circumstances. A district court may grant a party relief if “it is no longer equitable that the judgment should have prospective application.” Minn. R. Civ. P. 60.02(e). When deciding a rule 60.02(e) motion, the district court must “determine whether changed circumstances exist and, if so, whether they render it inequitable for the judgment to have prospective application,” which “must be determined on a case-by-case basis.” *Sabri*, 657 N.W.2d at 207. To prevail on a rule 60.02(e) motion, “a moving party must show that a present challenge to an underlying order would have merit.” *Id.* at 206.

In this case, Nelson has provided no evidence that he objected to the appointment of counsel or that he requested to represent himself during his civil-commitment proceedings. Nor does Nelson contend that he would have represented himself differently

during the proceedings. Thus, even if *Benson* was a significant change in circumstances, Nelson has not shown that it is no longer equitable for the commitment order to have prospective effect.

In sum, the district court did not err by denying Nelson's rule 60.02 motion for relief from his commitment order.

Affirmed.