

*This opinion is nonprecedential except as provided by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
A25-2187**

In re the Custody of the Child of:

Justin Steiner, petitioner,
Appellant,

vs.

Nicole Lynn Patten,
Respondent.

**Filed August 24, 2026
Reversed and remanded
Rasmusson, Judge**

Scott County District Court
File No. 70-FA-24-15065

Justin Steiner, Minneapolis, Minnesota (pro se appellant)

Nicole Patten, Shakopee, Minnesota (pro se respondent)

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

NONPRECEDENTIAL OPINION

RASMUSSON, Judge

On appeal from the district court's order vacating a recognition of parentage, appellant argues that he was prejudiced by improper service of process and the district court abused its discretion by vacating the recognition of parentage based on fraud. We

conclude that appellant was not prejudiced by improper service of process but reverse and remand the district court's order vacating the recognition of parentage.

FACTS

Appellant Justin Steiner and respondent Nicole Lynn Patten began dating when Patten was three months pregnant with G.S., the child whose custody is at issue in the underlying action. When G.S. was born, the parties signed a Recognition of Parentage (ROP) in which they declared that Steiner was the biological father. Steiner and Patten raised G.S. together for over a year until their romantic relationship ended. Steiner then petitioned the district court to establish custody and parenting time as G.S.'s legal parent under Minnesota Statutes section 257.75, subdivision 3 (2024). At an early hearing and consistently thereafter, both parties admitted when they signed the ROP they knew Steiner was not G.S.'s biological father.

There are two orders impacting the issues on appeal. Patten first filed a motion for genetic testing in May 2025, which the district court granted in a written order, determining that "Steiner's acknowledgement that he is not the child's biological father established a prima facie basis to vacate the recognition of parentage." DNA test results confirmed that Steiner is not G.S.'s biological father.

Patten then filed her second motion, petitioning the district court to vacate the ROP, stating "I would like to have the ROP vacated because Justin Roy Steiner is not [G.S.'s] biological father. The DNA results that I received back on the 22nd of July confirm that the probability of paternity is 0%." At the hearing, Patten testified that she signed the ROP because she wanted G.S. to have a father and that the child's biological father had "tried to

kill” her during the pregnancy. Steiner opposed vacating the ROP and testified that he signed it because he bonded with G.S. and wanted to always be her father. After a hearing, the district court vacated the ROP on the theory that Steiner and Patten had committed fraud upon the state.

Steiner now appeals.¹

DECISION

I. Steiner was not prejudiced by untimely service of process.

As an initial matter, Steiner appears to contend that Patten did not timely serve him with either the motion for genetic testing or the motion to vacate the ROP.

Appellate courts review de novo whether service was effective, “apply[ing] the facts as found by the district court unless those factual findings are clearly erroneous.” *Shamrock Dev., Inc. v. Smith*, 754 N.W.2d 377, 382 (Minn. 2008); *accord. Melillo v. Heitland*, 880 N.W.2d 862, 864 (Minn. 2016).

As to the motion for genetic testing, Steiner contends that service was due on May 31, 2025, but Patten did not serve him until June 4, 2025. However, the record contains an affidavit of service by mail indicating Patten served Steiner with the notice of motion and motion to order genetic testing on May 30, 2025. “Service by mail is complete upon mailing.” Minn. R. Civ. P. 5.02(c). We conclude that Patten timely served Steiner with her motion for genetic testing.

¹ Patten did not file a response brief. Therefore, this case will be decided on the merits as provided in Minn. R. Civ. App. P. 142.03.

As to the motion to vacate the ROP, Steiner contends that “[t]he judge granted [Patten] a final chance to serve [him] properly and it never happened. [The ROP] was revoked without due process.” Patten served her notice of motion and motion to vacate the ROP upon Steiner on July 25, 2025. The hearing on the motion was initially set for August 7, 2025, less than 14 days later. Minnesota General Rule of Practice 303.03(a) requires “[n]o motion shall be heard unless the moving party . . . properly serves” the opposing party “at least 21 days before the hearing.” At the August 7, 2025 hearing, the district court noted that service was untimely. Steiner stated that he was unable to respond because of the late notice. The district court continued the proceedings, set a deadline of September 2 for Steiner’s response, and reset the hearing to September 9, 2025. The continuance afforded Steiner sufficient time to respond and exceeded the notice required by the rules.

We conclude that the district court did not err in proceeding with the hearings on the motion for genetic testing and motion to vacate the ROP.

II. The district court improperly vacated the ROP.

Steiner next contends that the district court improperly vacated the ROP because “no findings supporting fraud were established in the evidentiary record.” We agree.

Appellate courts review a district court’s vacation of an ROP for an abuse of discretion. *See Hestekin v. Hestekin*, 587 N.W.2d 308, 310 (Minn. App. 1998) (“In the event the court finds circumstances that might permit vacating the judgment, its decision on the question of whether vacation is an appropriate remedy must be upheld in the absence of an abuse of the trial court’s discretion.”). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or

delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted). Appellate courts “review a district court’s application of the law de novo.” *Harlow v. State, Dep’t of Hum. Servs.*, 883 N.W.2d 561, 568 (Minn. 2016).

“Once a recognition has been properly executed and filed with the state registrar of vital records, if there are no competing presumptions of paternity, a judicial or administrative court *may not allow further action to determine parentage* regarding the signator of the recognition.” Minn. Stat. § 257.75, subd. 3(a) (emphasis added). Instead, the ROP “has the force and effect of a judgment or order determining the existence of the parent and child relationship.” *Id.*; *see also Williams v. Carlson*, 701 N.W.2d 274, 278, 280, 282 (Minn. App. 2005) (affirming grant of sole physical custody to nonbiological father when mother failed to bring timely action to vacate the ROP or to allege that vacation of the ROP was necessary due to fraud).

“The burden of proof in an action to vacate the recognition is on the moving party. The moving party *must* request the vacation on the basis of fraud, duress, or material mistake of fact.” Minn. Stat. § 257.75, subd. 4(b) (2024) (emphasis added). “If the court finds a *prima facie* basis for vacating the recognition, the court shall order [the parties] to submit to blood tests.” *Id.*, subd. 4(a) (2024). “If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition.” *Id.*

Here, the district court determined that there was a *prima facie* case of fraud based on the parties’ acknowledgement that they both made false representations when they

signed the ROP. However, mutual misrepresentation is not a legal basis to request vacation of an ROP. *See id.*, subd. 4(b). A showing of fraud, duress, or material mistake of fact is *required* to vacate an ROP or to order genetic testing as part of that process. *Id.*

We examine whether Patten established a *prima facie* case of fraud.² A party seeking to establish a *prima facie* case of fraud must make an initial showing of all the elements of fraud. *See Tousignant v. St. Louis County*, 615 N.W.2d 53, 59 (Minn. 2000) (discussing what constitutes a *prima facie* case).

To establish fraud, a plaintiff must demonstrate: [t]hat the defendant (1) made a representation (2) that was false (3) having to do with a past or present fact (4) that is material (5) and susceptible of knowledge (6) that the representor knows to be false or is asserted without knowing whether the fact is true or false (7) with the intent to induce the other person to act (8) and the person in fact is induced to act (9) in reliance on the representation and (10) that the plaintiff suffered damages (11) attributable to the misrepresentation.

Heidbreder v. Carton, 645 N.W.2d 355, 367 (Minn. 2002) (quotation omitted).

Patten’s pleadings do not allege that Steiner made a false representation to her, that she relied on that false representation, or that she suffered damage associated with the misrepresentation. Instead, when Patten requested genetic testing she stated, “I would like a paternity test done because I know Justin Roy Steiner is not [G.S.’s] biological father and signing the [recognition] of parentage . . . was the biggest mistake I have made.” This statement contains none of the elements of fraud.

² Neither the parties nor the district court raised issues of duress or material mistake of fact. Therefore, we only examine the issue of fraud.

The district court relied on the parties' mutual misrepresentations when it presented a theory of fraud upon the state, explaining that the definition of fraud within the statute "is capacious enough to include fraud on the government." We found no caselaw to support the district court's theory that parties who jointly execute an ROP knowing that it contains false statements commit fraud upon the state.³ Further, the statute provides a mechanism whereby an action to vacate an ROP can be brought by the state. *See* Minn. Stat. § 257.75, subd. 4(a) ("An action to vacate a recognition of parentage may be brought by the public authority."). In this case the public authority did not join in the request to vacate the ROP.

We conclude that the district court erred by determining that a *prima facie* basis existed to vacate the ROP and, as part of that process, by ordering genetic testing, as Patten did not establish the elements of fraud in her pleadings. We reverse the district court's order for genetic testing⁴ and its order vacating the ROP and remand for further proceedings in the custody action.

Reversed and remanded.

³ We do not condone false statements in ROPs or in any government documents. We note, however, that by signing an ROP, the parties accepted "the rights, responsibilities, alternatives and legal consequences associated with signing." *T.G.G. v. H.E.S.*, 946 N.W.2d 309, 317 (Minn. 2020) (quotation omitted).

⁴ Although we note that section 257.75, subd. 4(a), requires a district court to vacate an ROP if a blood test establishes that the father listed on the ROP is not the biological father, it does not apply here because the district court lacked a *prima facie* basis to order a blood test. *See Williams*, 701 N.W.2d at 279 (stating that "genetic testing was not permissible" when the mother did not allege fraud, duress, or mistake, but requested testing "to establish paternity").