

*This opinion is nonprecedential, except as provided by  
Minnesota Rule of Civil Appellate Procedure 136.01, subdivision 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A26-0084**

Kevin Christopher Zook,  
Appellant,

vs.

Minnesota Masonic Home,  
Respondent.

**Filed July 6, 2026  
Affirmed  
Ede, Judge**

Hennepin County District Court  
File No. 27-CV-25-13932

Kevin Christopher Zook, Bloomington, Minnesota (self-represented appellant)

Gina K. Janeiro, Roger Yang, Jackson Lewis P.C., Minneapolis, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Ede, Judge.

**NONPRECEDENTIAL OPINION**

**EDE**, Judge

Appellant challenges the district court's order dismissing his personnel-record claim. In particular, appellant argues that the district court improperly considered matters outside his complaint and resolved disputed facts against him in ordering dismissal. We affirm.

## FACTS

Consistent with applicable law and except as otherwise noted, the following summary and quotations of the record derive from the factual allegations set forth in the complaint. We accept these facts as true and construe the reasonable inferences arising therefrom in favor of appellant Kevin Christopher Zook, who was the nonmoving party before the district court.<sup>1</sup>

Respondent Minnesota Masonic Home employed Zook for several years before the events underlying this case. In January 2025, Masonic Home discharged Zook due to his dispute with a dietary staff member who had “repeatedly entered unauthorized areas in violation of facility policy and [had] created a hostile and unsafe work environment.” Although Zook had provided reports to supervisors and management about the dietary staff member, his “concerns were not addressed or documented in any performance evaluations, disciplinary records, or internal communications maintained in [his] personnel file.” Masonic Home stated that the reason for its discharge of Zook “was an alleged hostile interaction during which [Zook] removed the [dietary] staff member’s headphones and hat.” “The incident was used as a pretext to terminate [Zook] in retaliation for his protected complaints and in neglect of [Masonic Home’s] duty to maintain a safe work environment.”

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<sup>1</sup> See *Halva v. Minn. State Colls. and Univs.*, 953 N.W.2d 496, 500 (Minn. 2021) (explaining that, in reviewing “the allegations of a complaint subject to dismissal under [Minnesota] Rule [of Civil Procedure] 12.02 de novo,” appellate courts “must accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party” (quotation omitted)).

After Masonic Home discharged him, Zook requested a copy of his complete personnel record under Minnesota Statutes section 181.961 (2024).<sup>2</sup> Masonic Home mailed Zook a copy of his personnel record in April but omitted “numerous performance reviews, communications with supervisors, internal emails, and critical context concerning [Zook’s] protected complaints.” Although Zook made “follow-up requests” pursuant to Minnesota Statutes sections 181.960 through .962 (2024), Masonic Home “refused to provide the missing documentation and denied its existence without explanation or written confirmation.” And Masonic Home thereafter “refused to engage in any further resolution discussions.”

In July 2025, Zook commenced the underlying lawsuit against Masonic Home, alleging, among other things,<sup>3</sup> “Violation of Minn. Stat. § 181.961 – Failure to Provide Complete Personnel Record” (Count I). Masonic Home later moved to dismiss Zook’s complaint under Minnesota Rule of Civil Procedure 12.02(e). In support of its motion, Masonic Home filed several exhibits—correspondence between Masonic Home’s human resources director and Zook—which were referenced in the complaint.

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<sup>2</sup> Pursuant to Minnesota Statutes section 181.961, subdivision 2(c), upon written request by an employee who has separated from employment, an employer must provide the employee a copy of their personnel record no later than seven working days after receipt of the request, if the record is in Minnesota.

<sup>3</sup> Zook makes no appellate argument relating to the following claims in his complaint: “Retaliation under the Minnesota Whistleblower Act (Minn. Stat. § 181.932)” (Count II); “Negligent Retention and Supervision” (Count III); “Disparate Treatment/Unequal Enforcement of Policy” (Count IV); and “Declaratory Relief – Violation of Minn. Stat. §§ 181.960–.962” (Count V).

Following a hearing, the district court issued a written order granting Masonic Home’s motion to dismiss, with prejudice. As to Count I, the district court observed that several of Zook’s requests concerned “documents [that] are not considered part of a personnel record as defined by Minn. Stat. § 181.960, subd. 4.” Considering the correspondence exhibits that Masonic Home filed in support of its motion to dismiss, the district court reasoned that Masonic Home’s human-resources director had “verified on behalf of [Masonic Home] that there were no additional performance evaluations.”<sup>4</sup> The district court therefore dismissed Count I for failure to state a claim upon which relief can be granted.

This appeal follows.

## DECISION

Zook challenges the district court’s order dismissing Count I of his complaint.<sup>5</sup> More specifically, Zook contends that the district court improperly considered matters

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<sup>4</sup> As further support for its decision to dismiss the complaint, the district court noted that Zook had “not claimed any damage sustained from any missing performance evaluations.”

<sup>5</sup> Zook’s appellate arguments relate only to the district court’s decision to dismiss Count I, his personnel-record claim under Minnesota Statutes section 181.961. Accordingly, our review of the district court’s order focuses on the court’s dismissal of that claim. *See In re Welfare of the Children of L.K.*, 32 N.W.3d 163, 175 n.11 (Minn. 2026) (declining to address an issue that was “abandoned [by the appellants] . . . in their briefing”); *see also Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (explaining that an “issue [that] was not argued in the briefs . . . must be deemed waived”).

outside his complaint and resolved disputed facts against him in ordering dismissal.<sup>6</sup> These arguments do not merit reversal.

Under Minnesota Rule of Civil Procedure 12.02(e), a party may move to dismiss a complaint for “failure to state a claim upon which relief can be granted[.]” If such a motion presents “matters outside the pleading” that are “not excluded by the court,” the district court must treat the motion “as one for summary judgment” and rule on it “as provided in Rule 56.” Minn. R. Civ. P. 12.02. Even so, the Minnesota Supreme Court has instructed that “courts may consider documents referenced in a complaint without converting the motion to dismiss to one for summary judgment.” *Hoskin v. Krsnak*, 25 N.W.3d 398, 409–10 (Minn. 2025) (quotation omitted).

Appellate courts “review de novo whether a complaint has stated a claim sufficiently to survive a motion to dismiss.” *State of Minn. Off. of Att’y Gen. v. Madison Equities, Inc.*, 29 N.W.3d 700, 706 (Minn. 2026) (quotation omitted). In doing so, appellate courts must “accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party.” *Halva*, 953 N.W.2d at 500 (quotation omitted). While “absolute specificity in pleading is not necessary,” a complaint is properly

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<sup>6</sup> In his statement of the case, Zook suggests that “the district court abused its discretion by dismissing the action with prejudice without permitting amendment” of the complaint. Any argument on this issue is forfeited because Zook did not adequately brief it and our inspection of the record reveals no obvious prejudicial error. *See In re E.M.B.*, 987 N.W.2d 597, 600 n.5 (Minn. App. 2023) (concluding that an argument that was not adequately briefed was forfeited). We add that a district court acts within its discretion by not addressing a plaintiff’s request to amend a complaint when the plaintiff does not properly bring a motion for leave to amend, *Forslund v. State*, 924 N.W.2d 25, 37 (Minn. App. 2019), and that Zook brought no such motion here.

dismissed for failure to state a claim “if it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded.” *Id.* at 500–01 (quotations omitted).

The district court appropriately considered the correspondence exhibits that Masonic Home filed in support of its motion to dismiss. In the complaint, Zook references the correspondence between himself and Masonic Home’s human-resources director in relation to his allegations: (1) “[f]ollowing his termination, [Zook] requested a complete copy of his personnel record pursuant to Minn. Stat. § 181.961”; (2) Masonic Home “mailed a personnel file on April 4, 2025, which omitted numerous performance reviews, communications with supervisors, internal emails, and critical context concerning [Zook’s] protected complaints”; (3) “[d]espite several follow-up requests and citations to Minn. Stat. §§ 181.960-.962, [Masonic Home] refused to provide the missing documentation and denied its existence without explanation or written confirmation”; and (4) Masonic Home “has claimed it fully complied with its statutory obligation to provide [Zook’s] personnel file, [y]et has directly contradicted [itself] as evidenced in the email dated May 8th, 2025, among [s]everal other email communications.” Based on these references, we conclude that the district court properly considered the correspondence exhibits that Masonic Home filed, without converting the motion to dismiss to one for summary judgment. *See id.*<sup>7</sup>

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<sup>7</sup> We likewise reject Zook’s argument that the district court erroneously considered an affidavit by Masonic Home’s attorney in ordering dismissal. As Masonic Home correctly points out, the district court relied only on the correspondence exhibits attached to the attorney affidavit—not the affidavit itself.

We also conclude that the district court did not err in dismissing Zook's personnel-record claim under Minnesota Statutes section 181.961 (Count I). That statute provides: "Upon written request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record." Minn. Stat. § 181.961, subd. 1. "With respect to employees who are separated from employment, upon the employee's written request, the employer shall provide a copy of the personnel record to the employee." *Id.*, subd. 2(c). "Providing a copy of the employee's personnel record to the employee satisfies the employer's responsibility to allow review as stated in subdivision 1." *Id.*

"Personnel record," to the extent maintained by an employer, means: any application for employment; wage or salary history; notices of commendation, warning, discipline, or termination; authorization for a deduction or withholding of pay; fringe benefit information; leave records; and employment history with the employer, including salary and compensation history, job titles, dates of promotions, transfers, and other changes, attendance records, performance evaluations, and retirement record.

Minn. Stat. § 181.960, subd. 4.

Zook asserts that the district court erred by making factual findings and credibility determinations in ruling for Masonic Home. But applying de novo review, accepting the facts alleged and documents referenced in the complaint as true, and construing all reasonable inferences in Zook's favor, we conclude that Zook's complaint does not state a

claim upon which relief can be granted. *See Hoskin*, 25 N.W.3d at 409–10; *see also Halva*, 953 N.W.2d at 500.<sup>8</sup>

While Zook alleged that the personnel record Masonic Home provided did not contain “numerous performance reviews, communications with supervisors, internal emails, and critical context,” of that list, only “performance evaluations” fall within the definition of “personnel record” under Minnesota Statutes section 181.960, subdivision 4. And, as shown by the documents referenced in the complaint, Masonic Home consistently informed Zook both that he did not have performance evaluations completed in 2023, 2024, or 2025 and that it had provided him with his complete personnel record. Indeed, those exhibits reveal that Zook wrote the following to Masonic Home’s human resources director about “documentation” Zook claimed was “missing” from the personnel record that Masonic Home had sent him: “If these documents do exist, they must be produced. If they do not exist, I am requesting written confirmation to that effect.”

Put differently, the correspondence referenced in Zook’s complaint reflects that Zook himself did not know whether the documents that he claimed were “missing” existed and that Masonic Home had provided him the entire personnel record. It therefore “appears to a certainty that no facts, which could be introduced consistent with [Zook’s complaint],

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<sup>8</sup> We also conclude that the district court correctly determined that Zook had “not claimed any damage sustained from any missing performance evaluations.” Based on violations of Minnesota Statutes section 181.961, an “employee may bring a civil action to compel compliance” and for “actual damages only, plus costs.” Minn. Stat. § 181.965, subd. 1 (2024). Zook makes no allegation in his complaint, however, that he suffered actual damages in relation to Count I, his personnel-record claim under Minnesota Statutes section 181.961.

exist which would support granting the relief demanded.” *Halva*, 953 N.W.2d at 500 (quotation omitted). Consequently, we conclude pursuant to our de novo review that Zook’s complaint does not “state[] a claim [under Minnesota Statutes section 181.961] sufficiently to survive a motion to dismiss.” *Madison Equities*, 29 N.W.3d at 706 (quotation omitted).<sup>9</sup>

**Affirmed.**

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<sup>9</sup> Zook also maintains that our nonprecedential decision in *Muafong v. Minn. Masonic Home - N. Ridge Care Ctr.*, No. A06-899, 2007 WL 2034280 (Minn. App. July 17, 2007), supports his argument that the district court committed “reversible error” by dismissing his complaint with prejudice, “despite concrete documentary contradictions.” He contends that, in *Muafong*, “claims against the same institutional employer were permitted to proceed into discovery on substantially less documentary evidence than [he] provided here.” “Nonprecedential opinions . . . are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority.” Minn. R. Civ. App. P. 136.01, subd. 1(c). In *Muafong*, we affirmed the district court’s decision to grant summary judgment dismissing the appellant’s claims of race discrimination and retaliatory discharge against respondent Minnesota Masonic Homes-North Ridge Care Center. 2007 WL 2034280, at \*1. Because *Muafong* is inapposite to Zook’s arguments in this appeal that the district court erred in determining that he failed to state a personnel-record claim under Minnesota Statutes section 181.961 upon which relief can be granted, we conclude that *Muafong* is not persuasive authority here.