

*This opinion is nonprecedential except as provided by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
A26-0126**

In re the SUPERVISED Estate of David Victor Page, Deceased.

**Filed August 24, 2026
Affirmed; motion denied
Reyes, Judge**

Hennepin County District Court
File No. 27-PA-PR-23-1085

Katherine Disterhaft-Cummings, Eveleth, Minnesota (self-represented appellant)

Andrea Briese, Windsor, Wisconsin (self-represented respondent)

Rachel Disterhaft, Oshkosh, Wisconsin (self-represented respondent)

Lori L. Guzmán, Guzmán LaLonde, PA, Apple Valley, Minnesota (for respondent
Navigator Fiduciary and Forensic Services, Inc.)

Considered and decided by Bratvold, Presiding Judge; Larkin, Judge; and Reyes,
Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant-niece challenges the district court's denial of her requests to remove the personal representative of decedent-uncle's estate and appoint her instead. Respondent-personal-representative opposes the challenge and moves for appellate attorney fees. We affirm the district court's decision and deny the motion.

FACTS

Decedent David Victor Page died intestate in April 2023, leaving three nieces as his sole heirs: self-represented appellant Katherine Disterhaft-Cumings and self-represented respondent-sisters Andrea Brieze and Rachel Disterhaft.¹ The heirs are all siblings. Respondent Navigator Fiduciary and Forensic Services, Inc. is a professional fiduciary and third-party neutral.

Most of the facts relevant to this appeal are accurately summarized in this court's earlier nonprecedential opinion, *In re Estate of Page*, No. A24-1043, 2025 WL 665727, at *1-2 (Minn. App. Mar. 3, 2025). There, we noted that “Disterhaft-Cumings petitioned for appointment as the personal representative of Page’s estate, asserting priority under Minn. Stat. § 524.3-203 (2024). The [respondent-]sisters cross-petitioned for the district court to appoint Navigator as the personal representative.” *Page*, 2025 WL 665727, at *1.

Following a hearing, the district court denied Disterhaft-Cumings’s petition, determining that she was not suitable to act as the personal representative, and instead granted respondent-sisters’ petition, appointing Navigator as the personal representative. *Id.* at *2. Two days later, Disterhaft-Cumings filed a motion to remove Navigator as the personal representative for cause (the “2024 motion”). *Id.* The district court denied the 2024 motion. *Id.*

Disterhaft-Cumings filed an appeal in which she “challenge[d] the district court’s decisions to deny [(1)] her petition for appointment as the personal representative and

¹ Respondent-sisters did not file a brief on appeal.

[(2)] her [2024 motion] to remove Navigator as the personal representative.” *Id.* We affirmed both decisions.² *Id.* at *3-4. Almost three months after we filed our decision and one year after Navigator’s appointment as the personal representative, Disterhaft-Cummings filed another motion (the “2025 motion”) requesting that the district court remove Navigator as the personal representative and appoint her instead. The district court denied the 2025 motion.

This appeal follows.

DECISION

Disterhaft-Cummings makes a variety of arguments, which we divide into three categories: (1) her challenge to the district court’s denial of her request to remove Navigator as the personal representative; (2) her challenge to the district court’s denial of her request for her own appointment as the personal representative; and (3) her requests for additional relief. We address each category in turn.

As a preliminary matter, we note that there are no hearing transcripts in the appellate record. Generally, an appellant bears the burden of providing an adequate record. *Mesenbourg v. Mesenbourg*, 538 N.W.2d 489, 494 (Minn. App. 1995); *see also Thorp Loan & Thrift Co. v. Morse*, 451 N.W.2d 361, 363 (Minn. App. 1990) (explaining that self-represented litigants are not relieved of this burden), *rev. denied* (Minn. Apr. 13, 1990). Without transcripts, the scope of our review is limited to “whether the district court’s

² Disterhaft-Cummings requested an extension of time to file a petition for review, which the supreme court denied.

conclusions of law are supported by its findings of fact.” *Bender v. Bender*, 671 N.W.2d 602, 605 (Minn. App. 2003).

We also note that “[w]e do not presume error on appeal.” *Kroona v. Dunbar*, 868 N.W.2d 728, 735 (Minn. App. 2015). An appellant bears the burden of proving that the district court committed an error warranting reversal. *Midway Ctr. Assocs. v. Midway Ctr., Inc.*, 237 N.W.2d 76, 78 (Minn. 1975).

I. The district court did not abuse its discretion by denying Disterhaft-Cummings’s request to remove the personal representative.

Disterhaft-Cummings challenges the district court’s denial of her request to remove Navigator as the personal representative, arguing that Navigator (1) “intentionally misrepresented material facts in the appointment proceedings” by “claim[ing] the estate had millions of dollars” and (2) “mismanaged the estate” by “causing” a piece of real property in the estate, specifically a condominium, “to go into foreclosure.” We are not persuaded.

The decision to remove a personal representative lies within the discretion of the district court. *See In re Est. of Michaelson*, 383 N.W.2d 353, 356 (Minn. App. 1986). A challenging party “bears the burden of proving that the district court abused its discretion.” *Blehr v. Anderson*, 955 N.W.2d 613, 624 (Minn. App. 2021).

“A person interested in the estate may petition for removal of a personal representative for cause at any time.” Minn. Stat. § 524.3-611(a) (2024). This “cause” requirement is met under certain enumerated circumstances including, as relevant here, when “it is shown that a personal representative . . . [(1)] intentionally misrepresented

material facts in the proceedings leading to the appointment . . . or [(2)] has mismanaged the estate.” Minn. Stat. § 524.3-611(b) (2024).

The district court considered a request to remove Navigator as the personal representative for cause in 2024, when Disterhaft-Cumings filed the 2024 motion two days after Navigator’s appointment. The district court held a hearing and then denied the 2024 motion based on the timing of the motion and the absence of any cause to remove a duly appointed personal representative. We affirmed this denial on appeal. *See Page*, 2025 WL 665727, at *2-4.

The district court considered another removal request in 2025, via the 2025 motion, held a hearing, and then denied the request. The district court noted that Disterhaft-Cumings’s arguments “appear to mirror her previously denied requests for removal[,] but also appear to allege new and unsettled events,” including that Navigator “is treating [Disterhaft-Cumings] unfairly.” The district court found both the old and new arguments unpersuasive and determined that Disterhaft-Cumings “is trying to relitigate the appointment of a professional rather than provide any legitimate information regarding the breach of fiduciary duty in the current [personal representative’s] administration.”

Disterhaft-Cumings fails to support her assertions that cause exists to remove Navigator based on either intentional misrepresentation or mismanagement. The record does not include a transcript of the appointment proceedings or the hearing on the 2025 motion, so we can only review “whether the district court’s conclusions of law are supported by its findings of fact.” *Bender*, 671 N.W.2d at 605. The district court found that Disterhaft-Cumings failed to provide sufficient facts to show cause to remove

Navigator as the personal representative. We conclude that this finding supports the district court's decision to deny the 2025 motion.

Based on the record available to us, we conclude that the district court did not abuse its discretion by denying the 2025 motion.

II. The law of the case forecloses review of our previous decision affirming the denial of Disterhaft-Cummings's request for appointment as the personal representative.

Disterhaft-Cummings also argues that “the courts should appoint [her] to act as the personal representative” because she is an “heir.” We cannot consider this argument.

The doctrine of the law of the case “is a discretionary tool available to a court in order to promote judicial efficiency.” *Kornberg v. Kornberg*, 525 N.W.2d 14, 18 (Minn. App. 1994) (quotation omitted), *aff'd*, 542 N.W.2d 379 (Minn. 1996). It “commonly applies to issues decided in earlier stages of the same case.” *Id.* (quotation omitted). “In particular, the doctrine provides that[,] when a court decides upon a rule of law, that decision should continue to govern the *same issues* in subsequent stages in the *same case*.” *Id.* (quotation omitted). Generally, a court “should be loathe to” revisit its prior decisions “in the absence of extraordinary circumstances.” *Id.* (quotation omitted).

The district court initially considered Disterhaft-Cummings's petition for appointment as personal representative in 2024 and found her to be “unsuitable to serve as Personal Representative” because she “engages in nonproductive communication and significant delay,” “unnecessarily expends time and effort on tasks which do not require it,” and “causes others to devote inordinate amounts of wasted time and energy on such endeavors.”

In Disterhaft-Cummings's prior appeal, she challenged this decision "on the ground that she had priority." *Page*, 2025 WL 665727, at *2.³ We "conclude[d] that the district court did not abuse its discretion when it determined Disterhaft-Cummings was unsuitable and, accordingly, denied her petition for appointment as the personal representative." *Id.* at *3. Disterhaft-Cummings has presented no evidence that any of these prior decisions are no longer correct or that she has otherwise changed her "unsuitable" way of proceeding on estate-related matters.

Because Disterhaft-Cummings has presented no evidence of a change in circumstances, the argument that she should have been appointed as the personal representative is "the *same issue*[]" that she litigated earlier in this "*same case*," and it is precluded by law of the case. *Kornberg*, 525 N.W.2d at 18 (quotations omitted). And because there are no extraordinary circumstances to suggest otherwise, we decline to revisit our previous decision.

III. We decline to consider Disterhaft-Cummings's remaining requests for relief.

Disterhaft-Cummings requests a variety of other relief from this court, which we divide into two subcategories for ease of reference: (1) issues that were not raised to the district court and (2) issues that are inadequately briefed on appeal.

A. We decline to consider issues not raised to the district court.

Disterhaft-Cummings asks that this court "declare" that the "estate is insolvent," require that "personal belongings" of the decedent are held in storage for a certain time,

³ While typically only persuasive, nonprecedential opinions are binding authority "as law of the case." Minn. R. Civ. App. P. 136.01, subd. 1(c).

“file an injunction and temporary restraining order against [Navigator],” divide the “administrative costs” of the estate “equally . . . between all the heirs,” and award Disterhaft-Cummings “damages” from Navigator.

Generally, appellate courts may consider only issues that were “presented [to] and considered by the [district] court.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Because Disterhaft-Cummings did not present any of these issues to the district court, we decline to consider them for the first time on appeal.

B. We decline to consider inadequately briefed issues.

Disterhaft-Cummings also asks that this court order Navigator to pay the estate “the costs [it] caused,” “[d]eny” two petitions filed by Navigator at the district court, and, after removing Navigator as the personal representative, “require” it to “provide detailed accounting to date with everything included.”

Minnesota appellate courts “decline to reach [an] issue in the absence of adequate briefing.” *State Dep’t of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997); *see In re Est. of King*, 992 N.W.2d 410, 418 (Minn. App. 2023) (citing *Wintz* in probate case). Although self-represented litigants are “usually accorded some leeway in attempting to comply with court rules, [they are] still not relieved of the burden of . . . adequately communicating to the court what it is [they] want[] accomplished and by whom.” *Carpenter v. Woodvale, Inc.*, 400 N.W.2d 727, 729 (Minn. 1987); *see also Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001) (noting that, generally, self-represented litigants are “held to the same standards as attorneys and must comply with court rules”).

Because Disterhaft-Cumings does not provide any legal argument or caselaw to support these additional requests, we decline to consider them.

IV. We decline Navigator's motion for appellate attorney fees.

After the parties filed their principal briefs in this appeal, Navigator filed a motion seeking appellate attorney fees under Minnesota Statutes section 549.211 (2024). Navigator asserts that the appeal is frivolous and in bad faith. Disterhaft-Cumings opposes the motion.

Any motion for sanctions under section 549.211 must be served at least 21 days before the motion is filed with the court, which gives the opposing party an opportunity to withdraw or correct the challenged arguments or assertions. Minn. Stat. § 549.211, subd. 4(a). Navigator filed proof of service with the motion papers, asserting that the motion was served by mail the day before it was filed in this court. Navigator has not established that the motion papers were served on Disterhaft-Cumings at least 21 days before filing the motion in this court, as required by the statute. *Id.* Because we conclude that Navigator did not comply with section 549.211, we need not address the reasonableness of the claimed fees.

Affirmed; motion denied.