

*This opinion is nonprecedential except as provided by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
A26-0641**

In re the Trust Agreement of Soo K. Song dated April 28, 2016,
as amended November 4, 2020, and as restated December 23, 2020,
and estate planning documents of Soo K. Song.

**Filed September 28, 2026
Affirmed
Connolly, Judge**

Washington County District Court
File No. 82-CV-21-149

Julian C. Zebot, Peter C. Hennigan, Carly J. Johnson, Maslon LLP, Minneapolis,
Minnesota (for appellant Pori)

James Seungwon Song, Henderson, Nevada (pro se respondent)

Susan Eunwon Song, Woodbury, Minnesota (pro se respondent)

Considered and decided by Reyes, Presiding Judge; Connolly, Judge; and
Rasmusson, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the district court's determination that respondents, her siblings, did not exert undue influence on decedent, their mother, because it made findings that are not supported by the record, misapplied the factors of the undue-influence test, erred in excluding some evidence, and it abused its discretion in denying appellant's motion for a new trial. We affirm.

FACTS

Appellant Christine Pori (Christine) is the second child of decedent Soo K. Song (Soo) and her husband James Ji-Il Song. Respondents are her brother, James Song (Jim) and her sister, Susan Song (Susan). Jim has a son, James Bainbridge (JB) and two other children; Christine has two children, Elle and Ethan, and Susan has five children. Thus, Soo had three children and ten grandchildren.

In the 1990s, Soo moved to Nevada where her husband was working for their son Jim, who contributed financially to his parents from about 1985 to the early 2000s. Her husband died, and Soo was financially supported by her children. In 2004 and 2005, Jim's business declined. He withdrew \$200,000 from Soo's account, on which he did not pay taxes; as a result, a lien was put on Soo's home. In 2013, Christine and Susan stopped speaking to each other. From 2010 to 2020, Jim was involved in lawsuits resulting from his business.

Christine, her children, and Jim's son JB became what Christine refers to as Soo's "Core Nevada Family." In 2016, Soo's assets were put into a trust (the 2016 Trust) which had three beneficiaries: her grandchildren JB, Elle, and Ethan (33.3% each). Soo and Christine were co-trustees. Soo's relations with Jim and Susan were strained. In 2019, Susan encouraged Soo to refinance her home so she could help Jim with his financial difficulties; Soo amended the trust to name Christine's child, Elle, as the sole successor trustee; Christine and Soo refinanced the home; most of the equity became an asset of the trust; and an income-generating fund covered the mortgage payments. Christine transferred \$40,000 into her own account so she could pay Soo's expenses.

Soo was diagnosed with cancer in March 2020. She left Nevada, came to Minnesota to the Mayo Clinic for surgery, then lived with Susan in Minnesota and became close to her and her family.

On November 4, 2020, Soo executed a Second Amendment (the Second Amendment) to the trust that changed the beneficiaries to Jim (50%), Susan (20%) and JB, Elle, and Ethan (10% each).¹ Soo retained sole authority over the trust with power to amend and revoke its provisions. On December 16, 2020, Christine filed an action in Nevada, alleging that Soo lacked capacity and was under the undue influence of Jim and Susan when she executed the Second Amendment and seeking to invalidate the Second Amendment.

In December 2020, Soo retained a Minnesota attorney, Viet Hanh Winchell,² who drafted a Superseding Trust (the Superseding Trust) that had the same beneficiaries as the Second Amendment and superseded both the Second Amendment and the 2016 Trust. On December 23, 2020, Soo executed the Superseding Trust, a will, a revocation of power of attorney, a power of attorney, and a health care directive. On January 13, 2021, Soo petitioned the district court for an order confirming the appointment of herself as trustee and an order confirming the validity of the documents she executed on December 23, 2020, including the Superseding Trust. Soo died in October 2021.

¹ Thus, Jim went from 0% to 50%, Susan went from 0% to 20%, and JB, Ethan, and Elle each went from 33.3% to 10%.

² Viet Hanh Winchell later became a judge in the tenth judicial district. She is referred to by her last name in this opinion.

Jim and Susan filed a petition for an order confirming the appointment of Jim as trustee and Susan as successor trustee of the Superseding Trust in November 2021, and in January 2022, Christine filed an objection to the petition and a counter-petition. At the trial in December 2024, Christine was represented by counsel; Jim and Susan represented themselves. They sought an order confirming the appointment of a successor trustee and the validity of the Second Amendment and the Superseding Trust (the documents). Christine sought a declaration that the documents were invalid due to (1) the undue influence of Jim and Susan on Soo and/or (2) Soo's lack of capacity when she executed the documents and/or (3) Susan's fraudulent inducement of Soo to execute the documents.

In August 2025, the district court found that Christine did not meet her burden to show undue influence, that Soo did not lack capacity to execute the documents, and that Soo was not fraudulently induced to execute them. The district court then granted Jim's and Susan's request for an order confirming the appointment of a successor trustee, confirmed the validity of all the relevant documents, and declined to declare the documents invalid, thus denying Christine relief.

In October 2025, Christine moved for a new trial, arguing that the district court's exclusion of Exhibit 503, a Nevada district court's 2019 opinion awarding a \$10,000 judgment against Jim relating to his business dealings, prejudiced Christine's ability to show undue influence. The district court denied her motion. This appeal follows.

DECISION

I. Undue Influence

“It is well settled that the will contestant must establish undue influence by clear and convincing proof.” *In re Est. of Anderson*, 379 N.W.2d 197, 200 (Minn. App. 1985), *rev. denied* (Minn. Feb. 19, 1986). “The existence of undue influence is a question of fact, and [an appellate court] will not set aside the findings of the [district] court as to undue influence unless they are manifestly and palpably contrary to the evidence as a whole, and this holds true even though [the appellate court] might have determined otherwise if it had heard the case de novo.” *In re Est. of Reay*, 81 N.W.2d 277, 282 (Minn. 1957); *see also Matter of Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (“When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.”) (quotation omitted).³

“A district court’s findings of fact shall not be set aside unless clearly erroneous.” Minn. R. Civ. P. 52.01. Findings are clearly erroneous only where the reviewing court is “left with the definite and firm conviction that a mistake has been made”; the reviewing court defers substantially to the district court’s opportunity to evaluate witness credibility firsthand. *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008). “Direct evidence

³ This language was recently quoted in a case called to our attention and relied on by appellant. *In re: Ratzlaff Family Trust*, No. A25-1752, 2026 WL 2017521, at *6 (Minn. App. Jul. 13, 2026) (affirming a finding of undue influence because “the district court did not clearly err in its findings of fact” and “the evidence [was] sufficient to support the district court’s judgment.”). The same reasons support our affirmance of the district court’s finding of no undue influence.

of undue influence is not required and is usually unobtainable, because the influence is rarely exercised openly in the presence of others. Therefore, the circumstantial evidence must be sufficient to indicate undue influence.” *Anderson*, 379 N.W.2d at 200 (citation omitted).

The evidence [of undue influence] must go beyond suspicion and conjecture and show, not only that the influence was in fact exerted, but that it was so dominant and controlling of the testator’s mind that, in making the will, he ceased to act of his own free volition and became a mere puppet of the wielder of that influence.

In re Congdon’s Est., 309 N.W.2d 261, 268 (Minn. 1981). Undue influence to invalidate a will “must, at the very time the will is made, operate with such dominant and persuasive force that the will of the person exercising it is substituted for the will of the testator.” *Reay*, 81 N.W.2d at 280 (Minn. 1957).

Thus, the question is whether, when Soo signed the documents, the will of someone else was substituted for her will. The district court answered that question in the negative: “Considering all of the factors together, the court finds [Christine] has not met her burden of proof to show undue influence as to either trust document.”

The factors to which the district court refers are those set out in *In re Wilson’s Estate*, 27 N.W.2d 429, 432 (Minn. 1947).

Undue influence, as the term itself implies, is influence of such a degree exerted upon the testator by another that it destroys or overcomes the testator’s free agency and substitutes the will of the person exercising the influence for that of the testator. The existence of undue influence in a particular case is to be determined by ascertaining the effect of the influence, which in fact was exerted, upon the testator’s mind, considering his physical and mental condition, the person by whom the

influence was exerted, the time, place, and all the surrounding circumstances thereof. Among the factors important as bearing upon the fact of undue influence are [1] the opportunity to exercise it, [2] active participation in the preparation of the will by the party exercising it, [3] a confidential relationship between the person making the will and the party exercising the influence, [4] disinheritance of those whom the decedent probably would have remembered in his will, [5] singularity of the provisions of the will, and [6] the exercise of influence or persuasion to induce him to make the will in question.

Wilson, 27 N.W.2d at 432 (citations omitted).

Christine argues that the district court “erred as a matter of law” in its treatment of most of these factors. However, “[s]ince the existence of undue influence is a question of fact for the trier of fact, the sole issue upon [an] appeal is whether the findings of fact by the [district] court are sustained by the evidence.” *Reay*, 81 N.W.2d at 279.

Except for the first factor, as to which the district court found that Susan had the opportunity to exercise undue influence over Soo because she lived with and cared for Soo while the documents were being prepared and executed, Christine argues that the district court “committed errors of law in its application of the . . . *Wilson* factors, which, in return, resulted in an improper factual analysis.”

As to the second factor, active participation in the preparation of the will by the party allegedly exercising undue influence, the district court found that:

Susan was actively working with Soo on drafting and crafting the Second Amendment. However, Jim was not actively involved with Soo at that time, and neither [Jim nor Susan] was actively participating in drafting the Superseding Trust. For that, Soo used her own attorney [Winchell] who testified that she met individually with Soo to gather Soo’s testamentary intentions. Even to the extent Susan actively participated in the preparation of the Second Amendment, the evidence is not

clear . . . that [her] active participation led to any sway in the distribution decisions in the trust. Importantly, it is undisputed that Susan suggested to Soo that everything should go to Jim, or that it should be split between Jim and Christine—neither of which occurred in either trust document or even in any of the variations that Soo expressed wanting while finalizing the Second Amendment.

Susan’s “undue influence” would not have resulted in Soo making a distribution very different from what Susan wanted. Although Susan did actively participate in the Second Amendment, the resulting distribution was Soo’s, and Soo rejected the suggestions of both Susan and Winchell as to the distribution.

Christine disputes the district court’s finding that neither Jim nor Susan actively participated in the drafting of the Superseding Trust, relying on cases stating that involvement in selecting an attorney can be a form of undue influence and arguing specifically that Susan unduly influenced Soo by hiring Winchell and driving Soo to meetings with Winchell. But Winchell testified that Soo, not Susan, was Winchell’s client and that Winchell insisted on speaking to Soo alone.

I would have been the one to request that Susan not be in the room . . . for me to gauge whether . . . the wishes [Soo] was making were actually hers and not somebody else’s. . . . I would have wanted to hear from her. Specifically her understanding of what she wanted.

Moreover, the day before Soo signed the Superseding Trust, Susan emailed Winchell that Soo “would not bend from” giving Jim 50% and that Winchell didn’t “think [giving \$]100% to [Jim] was a viable option.” Susan also expressed her own opinion that Christine’s biggest problem was the addition of Susan herself to the beneficiaries. Susan was obviously not in control of Soo’s decision on the disposition.

As to the third *Wilson* factor, the confidential relationship, the district court found it to be neutral because among the family members there was “ample evidence of a strong familial sense of obligation towards one another” and “the fact that Susan was in this role [of Soo’s caregiver] at the time of the execution of the trust documents, taken in the context of the family relations, does not create a fiduciary relationship.” For this, the district court relied on *In re Marsden’s Estate*, 13 N.W.2d 765, 771 (Minn. 1944) (“Evidence of affection or intimacy as between persons related by blood or marriage negatives rather than proves undue influence.”); *see also Anderson*, 379 N.W.2d at 201 (reversing district court’s finding of undue influence in part because “the close relationship between [the testator] and [the beneficiary] tends to refute a finding of undue influence”). The fact that Susan was Soo’s primary caregiver from after her surgery in March 2020 through the time she signed the documents in November and December 2020 does not equate to undue influence.

The district court concluded that Factor 4, the disinheritance of those whom the decedent probably would have remembered, and Factor 5, the singularity of any provision of the will, weighed against undue influence because the 2016 Trust had named none of Soo’s three children and three of her ten grandchildren as beneficiaries, while the later documents added two of her three children and retained the same three grandchildren. The fact that some children are treated differently from others in a will “is not controlling,” *Reay*, 81 N.W.2d at 282, and the same would apply to grandchildren.

Christine was not named as a beneficiary either in 2016 or in 2020, although both her children were beneficiaries on both occasions, along with JB, excluding seven of Soo’s

ten grandchildren. No beneficiary of the 2016 Trust was later disinherited; there was nothing singular about the changes made in 2020. The only basis for considering the changes to be the result of undue influence is Christine's assumption that, in 2020, the 2016 Trust was the only expression of Soo's true intent.

Finally, as to the sixth factor, "the exercise of influence or persuasion to induce [the settlor] to make the [trust] in question," the district court found that "the contemporaneous evidence is that Soo was making her own decisions at this time—from her health care decisions like the DNR and [her] refusing to return to Nevada [T]he Court finds there is insufficient evidence that [Jim and Susan] induced Soo to make either trust document."

Winchell's testimony supports that finding. She testified that she "wanted to be able to understand what [Soo] was thinking and that she was thinking clearly and . . . if I was frankly comfortable moving on with her estate planning and . . . if she was okay with me moving forward." She also testified that she provided Soo with three options, namely, splitting the trust equally among her three children, or splitting it equally among her ten grandchildren, or giving it entirely to her eldest son, and that Soo chose none of those but made the same decision she had made with the Second Amendment before hiring Winchell: 50% to Jim, 20% to Susan, and 10% each to JB, Elle, and Ethan. When Winchell was asked if she remembered Soo saying anything memorable about her feelings for Christine, she replied that Soo said, more than once, that Christine "played a dirty trick" but did not specify what it was. When asked, "if you didn't believe Soo Song had that proper capacity [to make estate plans], would you have walked away from Soo Song signing the superseding trust?" Winchell answered,

If I'm not comfortable moving forward with a client I don't have a problem saying no. So I felt that [Soo] understood what was going on or at least she could repeat to me and engage and ask me questions and she knew what she was asking for and so I completed the estate planning.

Winchell answered "Yes" when asked if it was accurate "[t]hat it was Soo who set the determination of what she wanted to do in her trust, who[m] she wanted that beneficiary portion to go to" and said Soo knew that JB, Elle, and Ethan were her grandchildren. Winchell also answered "Yes" when asked if Soo knew the "removal of trustee" document she signed was to remove Christine as a trustee. Finally, when asked how Soo was, specifically on the day of signing, Winchell said "I felt that [Soo] understood what I had explained to her" and said she was

ensuring that Soo did go over [the documents] and it [wasn't] just Susan telling me yep, these are good or Susan being the one to tell me what to change on [them] [,] that it was Soo that was ultimately telling me what needed to be done and if it was good to go.

Winchell was then asked, "And you were comfortable that it was Soo making the decisions to execute these documents [because] she was asking you questions and you were answering them?" and answered, "Was I comfortable moving forward based on my interaction with Soo? Correct."

The district court found that:

It is undeniable that all of the currently living interested parties loved Soo. It is also undeniable that there is a lot of hurt pride and emotional injury between the siblings [i.e., Soo's children], and that dynamic impacted the next generation. The Court recognizing the dynamic at play does not discard the testimony of these witnesses but finds it much less persuasive than the testimony of [Winchell] who represented Soo.

....

[Winchell] testified credibly and persuasively that Soo understood the overall purpose of the estate documents she drafted, that Soo understood what [Winchell] explained to her, and that Soo was the one making the decisions.

None of the six *Wilson* factors, individually or collectively, provides clear and convincing proof of undue influence. *See Anderson*, 379 N.W.2d at 200 (stating that undue influence must be established by “clear and convincing” evidence). The district court did not clearly err in finding that neither the Second Amendment nor the Superseding Trust was the result of undue influence.

II. Motion for a New Trial

“We review a district court’s decision to grant or deny a new trial for an abuse of discretion.” *Christie v. Est. of Christie*, 911 N.W.2d 833, 838 (Minn. 2018). Evidentiary rulings are also reviewed for an abuse of discretion. *Kelly v. Ellefson*, 712 N.W.2d 759, 766 (Minn. 2006). “Evidentiary rulings concerning materiality, foundation, remoteness, relevancy, or the cumulative nature of the evidence are within the trial court’s sound discretion and will only be reversed when that discretion has been clearly abused.” *Johnson v. Washington Cnty.*, 518 N.W.2d 594, 601 (Minn. 1994) (quotation omitted). Even if evidentiary error is demonstrated, reversal is not warranted unless it can be shown that the error changes the result of the trial. *George v. Estate of Baker*, 724 N.W.2d 1, 9 (Minn. 2006). “Entitlement to a new trial on the grounds of improper evidentiary rulings rests upon the complainant party’s ability to demonstrate prejudicial error.” *Kroning v. State Farm Auto Ins. Co.*, 567 N.W.2d 42, 46 (Minn. 1997) (quotation omitted). An error

is prejudicial if it “might reasonably have changed the result.” *Torchwood Properties, LLC v. McKinnon*, 784 N.W.2d 416, 419 (Minn. App. 2010).

The district court excluded as irrelevant and cumulative Exhibit 503, the order in *Pensivy v. Longevity Worldwide, LLC et al.*, Clark County, Nevada District Court (March 29, 2019) (finding that, in 2015-2017, Jim had committed fraudulent misrepresentation, fraud, and conversion of \$100,000 and ordering him to pay that amount plus statutory interest). Christine argues that the exclusion was an abuse of discretion because the judgment was “relevant both to undue influence and Jim’s fitness as a trustee” and its exclusion “prejudiced Christine’s ability to fully present [Jim’s and Susan’s] motive for obtaining Soo’s assets.”

At the trial here, the district court “explicitly allowed [Jim] to be examined on [the] contents [of the Pensivy order] and the fraud finding.” It concluded that:

[Jim’s] financial pressures, including but certainly not limited to the judgment in the Pensivy matter, as well as his character were central themes in the evidence and argument set forth by [Christine]. The Court considered this information, including [Susan’s] admission of the fraud finding both substantively as well as in considering Jim’s credibility. The Court finds that Exhibit 503 is a court ruling related to a 2015 business dealing between [Jim] and others who are not parties to this case. Its relevance is dubious and limited to his financial condition as well as his credibility—both of these issues were thoroughly explored in the record in this matter, including specifically the impact of the underlying issues and circumstances contained in Exhibit 503. The court has fully reviewed Exhibit 503, and had done so prior to its offer during testimony in light of the parties’ pretrial motion practice. To the extent Exhibit 503 is relevant, it is cumulative to the other evidence elicited at trial. Even if Exhibit 503 had been received, the Court’s findings would have been the same. As such, even if there was error, the Court

cannot find that [Christine] was prejudiced by that error and therefore [her] motion [for a new trial] must be denied.

Christine first expresses the view that, while the financial need of a beneficiary is not a factor to be considered in deciding whether the beneficiary exerted undue influence, it could be a factor, relying on five words in a nonprecedential decision: “Where a confidential relationship exists, a showing of an opportunity to exercise undue influence, *an inclination to do so*, and a resulting disposition . . . which ignores the natural recipients is usually sufficient to establish undue influence.” *In re Est. of Horton*, No. A18-1477, 2019 WL 3000756, at *2-3 (Minn. App. July 1, 2019), *rev. denied* (Minn. Sep. 25, 2019) (emphasis added). Nonprecedential opinions of this court are cited for their persuasive value only. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c). She offers no other support for this view, and what she does offer is not persuasive.

She then argues that, because a district court in another state determined that Jim was liable for fraud for a business deal he entered into ten years ago, Jim is “unfit to serve as a trustee,” although Soo appointed him as trustee in the superseding trust. Again, she offers no support for her view that anyone convicted of fraud is permanently ineligible to be a trustee regardless of the views of the settlor.

The district court did not err in finding no undue influence and did not abuse its discretion in its decision to exclude Exhibit 503 or in denying Christine’s motion for a new trial.

Affirmed.