STATE OF MINNESOTA

IN COURT OF APPEALS

A25-1650

In the Matter of the Civil Commitment of:
Jason Lee Birkholtz.

ORDER OPINION

Morrison County District Court
File No. 49-PR-12-355

Considered and decided by Ede, Presiding Judge; Frisch, Chief Judge; and Bentley, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Appellant Jason Lee Birkholtz challenges the district court's order denying his motion under Minnesota Rule of Civil Procedure 60.02 for relief from a judgment that indeterminately committed him as a sexually dangerous person. Birkholtz argues that the district court abused its discretion by adopting nearly verbatim proposed findings of fact and conclusions of law filed by respondent Morrison County Social Services (the county), by erroneously denying relief under rule 60.02(d) and (e) despite his claim that he was deprived of the right to represent himself during his civil commitment proceedings, and by incorrectly determining that his motion was untimely filed. We affirm.

2. In October 2012, with the assistance of a court-appointed attorney,[1] Birkholtz entered into a stipulation for indeterminate commitment as a sexually dangerous person. In the stipulation, Birkholtz affirmed in relevant part:

> I am represented by an attorney . . . .
>
> a. I believe that I have had sufficient time to discuss my case with my attorney.
>
> b. I am satisfied that my attorney is fully informed as to the facts of this case.
>
> c. My attorney has discussed possible defenses to the Petition that I might have. I understand these possible defenses and how they could affect the outcome of this proceeding.
>
> d. I am satisfied that my attorney has represented all of my interests and has fully advised me.

Birkholtz did not object to the appointment of counsel, did not ask to represent himself, and did not waive counsel during any stage of the 2012 civil commitment proceedings.

[1] *See* Minn. Stat. § 253B.07, subd. 2c (2024) ("The court shall appoint a qualified attorney to represent the proposed patient if neither the proposed patient nor others provide counsel."); *see also* Minn. Spec. R. Commit. & Treat. Act 9(a) ("Immediately upon the filing of a petition for commitment or early intervention the court shall appoint a qualified attorney to represent the respondent at public expense at any subsequent proceeding under Minnesota Statutes, chapter 253B or 253D."). Although the civil commitment proceedings occurred in 2012, we cite the most recent version of Minnesota Statutes section 253B.07, subdivision 2c, and Minnesota Special Rule of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act 9(a) because—other than renumbering the applicable portion of rule 9 under subparagraph (a) and specifying that the rule applies to proceedings "under Minnesota Statutes, chapter 253B or 253D"—these provisions have not been amended in a manner that affects the resolution of this appeal. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000) (stating that, generally, "appellate courts apply the law as it exists at the time they rule on a case"). For the same reason, we also refer to the current versions of other statutes cited in this opinion.

Based on the stipulation, the district court filed stipulated findings of fact, conclusions of law, and an order—upon which the court entered judgment—indeterminately committing Birkholtz as a sexually dangerous person. The district court found that Birkholtz had "testified that he was satisfied with the legal representation of his attorney" and that he "stipulated that he was satisfied that his attorney had represented all of his interests, [that his attorney] had fully advised him, and [that he] was satisfied with the legal representation of his attorney."

3. In April 2025, Birkholtz filed a motion in the district court seeking relief under Minnesota Rule of Civil Procedure 60.02(d) and (e). Birkholtz asserted that he "was denied any opportunity or argument to assert his right to self-representation" in "violation of [his] liberty interests[] [and] due process rights" and that this "constitute[d] structural error, rendering the 2012 commitment orders void and without prospective effect" and "requiring 'automatic reversal' and . . . a new civil commitment hearing in which . . . , if [he is] found capable of a knowing and voluntary waiver, [he] is permitted to represent himself, present his own defenses, and introduce the evidence which he, alone, feels pertinent."

4. The county opposed Birkholtz's motion and filed a proposed order denying it. After the district court held a hearing on the motion, the court ruled against Birkholtz and filed an order largely adopting the language that the county had proposed. The district court determined that "Birkholtz ha[d] not met his burden of proof and ha[d] not shown that his challenge to his commitment order has merit." Among other things, the district court reasoned that "Birkholtz ha[d] not shown that [the] court lacks jurisdiction over the

subject matter or over the parties, as is required to succeed on his Rule 60.02(d) motion," that he "ha[d] not shown there has been a change in the operative facts, relevant decisional law, or change in applicable statutory law, as is required to prevail on his Rule 60.02(e) motion," and that his motion was "not timely because it was not brought within a reasonable time following his indeterminate commitment." Birkholtz appeals.

5. We review the "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). "A district court abuses its discretion when its decision is based on an erroneous view of the law or is inconsistent with the facts in the record." *In re Otto Bremer Tr.*, 2 N.W.3d 308, 319 (Minn. 2024) (quotation omitted). Appellate courts "review the district court's factual findings under a clear error standard to determine whether they are supported by the record as a whole." *In re Civ. Commitment of Ince*, 847 N.W.2d 13, 22 (Minn. 2014). "[A]n appellate court's duty is fully performed after it has fairly considered all the evidence and has determined that the evidence reasonably supports the decision." *Bremer Tr.*, 2 N.W.3d at 319 (quotation omitted).

6. Birkholtz argues that the district court abused its discretion "by fully adopting [the county's] proposed findings of fact, conclusions of law, and order." The Minnesota Supreme Court has "discourage[d] district courts from adopting proposed findings of fact and conclusions of law verbatim because it does not allow the parties or a reviewing court to determine the extent to which the court's decision was independently made." *Lundell v. Coop. Power Ass'n*, 707 N.W.2d 376, 380 n.1 (Minn. 2006). But "[t]he verbatim adoption of a party's proposed findings and conclusions of law is not reversible

error per se." *County of Dakota v. Blackwell*, 809 N.W.2d 226, 230 (Minn. App. 2011) (quotation omitted).

7. Although the county's proposed order and the district court's order are similar and differences between the two appear to be stylistic, we discern no reversible error on this basis. Given the record before us, we cannot say that the district court's findings of fact are clearly erroneous or that the record fails to reasonably support the district court's decision. *See Bremer Tr.*, 2 N.W.3d at 319.[2]

8. Birkholtz also maintains that the district court abused its discretion by erroneously denying him relief under Minnesota Rule of Civil Procedure 60.02(d) because he "suffered a due-process violation when he was deprived of his statutory and common law right to represent himself during his 2012 civil commitment proceedings," and he claims that "[r]elief under paragraph (d) is both available and appropriate in this matter."[3] Under Minnesota Rule of Civil Procedure 60.02(d), a judgment or order may be deemed void "if the issuing court lacked jurisdiction over the subject matter, lacked personal

[2] Birkholtz also contends that the district court clearly erred by finding that "[a]ll parties appeared remotely for the hearing." According to Birkholtz, "[t]his is a clearly false statement" that "definitively proves . . . [the district court] . . . abused [its] discretion when issuing the . . . order" because he "was prevented . . . from connecting to the courthouse for the hearing scheduled on that day." Because Birkholtz did not request transcripts of the district court hearing on his motion, we cannot review and therefore reject this contention. *See Fischer v. Simon*, 980 N.W.2d 142, 144 (Minn. 2022) ("It is elementary that a party seeking review has a duty to see that the appellate court is presented with a record which is sufficient to show the alleged errors and all matters necessary to consider the questions presented." (quotation omitted)).

[3] Birkholtz does not challenge the subject-matter or personal jurisdiction of the district court as to the 2012 civil commitment proceedings.

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. Minn. Dep't of Nat. Res.*, 594 N.W.2d 257, 261 (Minn. App. 1999), *aff'd*, 612 N.W.2d 862 (Minn. 2000).

9. "The burden of proof in a proceeding under Rule 60.02 is on the party seeking relief." *City of Barnum v. Sabri*, 657 N.W.2d 201, 205 (Minn. App. 2003). Assuming without deciding that Birkholtz's due-process rights include a right of self-representation during the 2012 civil commitment proceedings, we discern no abuse of discretion in the district court's determinations that Birkholtz did not meet his burden of proof and that he did not show that his commitment challenge had merit. *See id.* Nothing in the record suggests that, during the 2012 civil commitment proceedings, Birkholtz objected to the appointment of counsel, sought to waive his right to counsel and represent himself, or attempted to discharge his court-appointed attorney. Instead, the record reflects that Birkholtz "testified that he was satisfied with the legal representation of his attorney" and that he "stipulated that he was satisfied that his attorney had represented all of his interests, [that his attorney] had fully advised him, and [that he] was satisfied with the legal representation of his attorney." Thus, the district court did not deny Birkholtz due process of law by abstaining from a sua sponte grant of relief of self-representation that he both failed to request and affirmatively indicated was not an issue, as evinced by his stipulation. Under these circumstances, the district court acted within its discretion in denying

Birkholtz's motion under rule 60.02(d) because his due-process argument fails for lack of supporting evidence.[4]

10. Finally, relying on the Minnesota Supreme Court's decision in *In re Civil Commitment of Benson*, 12 N.W.3d 711, 721 (Minn. 2024) (holding that "Minnesota Statutes section 253D.20 [(2022)] establishes a waivable right to counsel and therefore does not preclude civilly committed people from representing themselves in commitment proceedings"), Birkholtz challenges the district court's determination under the third clause of Minnesota Rule of Civil Procedure 60.02(e) that changed circumstances do not exist. The third clause of rule 60.02(e) affords district courts the discretion to grant a party relief from a judgment or order if "it is no longer equitable that the judgment should have prospective application." Minn. R. Civ. P. 60.02(e). This clause "reflects the historic power of the court of equity to modify its decree in light of changed circumstances." *In re Civ. Commitment of Moen*, 837 N.W.2d 40, 48 (Minn. App. 2013) (quotation omitted), *rev. denied* (Minn. Oct. 15, 2013). In general, "changed circumstances" are "(1) changes in operative facts, (2) changes in the relevant decisional law, and (3) changes in any

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[4] Similarly, because Birkholtz has not shown that there were defects in the 2012 civil commitment proceedings, we reject his argument that the district court should have granted his motion under Minnesota Rule of Civil Procedure 60.02(d) and (e) based on his claim that "[t]he deprivation of [his] right to represent himself during his commitment proceedings was structural error." *State v. Bey*, 975 N.W.2d 511, 520 (Minn. 2022) (explaining that "[s]tructural error is a very limited class of error" that is made up of "defects in the constitution of the trial mechanism such that the entire course of the trial is affected" (quotation omitted)). Indeed, Birkholtz's contention on this point unpersuasively assumes, without adequate legal support, that the doctrine of structural error applies in civil commitment matters.

applicable statutory law." *Id.* at 48–49 (quotation omitted). In deciding a rule 60.02(e) motion concerning the third clause, district courts must "determine whether changed circumstances exist and, if so, whether they render it inequitable for the judgment to have prospective application." *Sabri*, 657 N.W.2d at 207.

11. We discern no abuse of discretion by the district court because—unlike *Benson*, in which the civilly committed person "filed a motion seeking an order allowing him to inquire and ask questions at [a Commitment Appeal Panel] hearing" and stated that he preferred to represent himself "if at all possible," 12 N.W.3d at 714 (footnote omitted) (quotations omitted)—Birkholtz did not seek to waive his right to counsel and represent himself in the 2012 civil commitment proceedings. On this record, *Benson* does not represent a change in the *relevant* decisional law, and the district court thus acted within its discretion in denying Birkholtz's motion under rule 60.02(e) based on its determination that changed circumstances do not exist. *See Moen*, 837 N.W.2d at 48–49; *see also Sabri*, 657 N.W.2d at 207.[5]

IT IS HEREBY ORDERED:

1. The district court's order is affirmed.

[5] Because we conclude that the district court acted within its discretion in denying Birkholtz's motion under Minnesota Rule of Civil Procedure 60.02(d) and (e) on the merits, we need not and do not address Birkholtz's argument that the court abused its discretion in determining that his motion was untimely filed.

2. Pursuant to Minnesota Rule of Civil Appellate Procedure 136.01, subdivision 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: May 7, 2026

BY THE COURT

Keala C. Ede

Judge Keala C. Ede