FILED
May 12, 2025
OFFICE OF APPELLATE COURTS

STATE OF MINNESOTA

IN COURT OF APPEALS

A24-1705

Joseph Daryll Rued,

Appellant,

vs.

Catrina Marie Rued, et al.,

Respondents,

Nelson Peralta, et al.,

Respondents.

ORDER OPINION

Hennepin County District Court
File No. 27-CV-24-5845

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

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

1. Pro se appellant Joseph Daryll Rued appeals from the district court's dismissal of his complaint, arguing that the district court erred by determining that (1) the claim is legally insufficient and (2) the factual allegations are insufficient.

2. Appellant's second amended complaint seeks relief in the form of setting aside orders in his and his ex-wife's family court division file under Minn. Stat. § 548.14 (2024). The respondents are appellant's ex-wife, Catrina Rued[1]; his ex-wife's attorney,

[1] Because appellant and his ex-wife have the same last name, we refer to appellant's ex-wife using her first name.

Beth Barbosa; Hennepin County District Court Judges Christian Sande, Nelson Peralta, and Charlene Hatcher; Hennepin County District Court Referee Richard Stebbins; and former Hennepin County District Court Referee Mike Furnstahl.[2] Appellant alleges that the judicial respondents "willfully and fundamentally relied upon" false child protective services (CPS) investigations, which caused the orders they issued to be "fraudulent and fraud upon the court." He alleges that CPS workers committed perjury during their investigations and that the "material claims" in a 2018 child in need of protective services petition were "falsified." He further asserts that the judicial respondents prevented his child from receiving medical care for allergies, lied about what experts testified to during evidentiary hearings, and fabricated evidence to find that he endangered the child. As to Catrina and her attorney, appellant only generally alleges they committed perjury during the CPS investigations.

3. A claim may be dismissed for "failure to state a claim upon which relief can be granted." *See* Minn. R. Civ. P. 12.02(e). Appellate courts "review de novo whether a complaint sets forth a legally sufficient claim for relief." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014). They "accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party." *Halva v. Minn. State Colls. & Univs.*, 953 N.W.2d 496, 500 (Minn. 2021) (quotation omitted).

4. The district court dismissed appellant's complaint, with prejudice, under Minn. R. Civ. P. 12.02(e) for failure to state a claim upon which relief may be granted. It

[2] We refer to the district court judges and referees collectively as the judicial respondents.

concluded that appellant's claim under Minn. Stat. § 548.14 is legally insufficient because his allegations are based on information that was available to him when the family matters were pending, and these issues cannot be relitigated under the statute.

5. Upon careful review of the district court's dismissal, we conclude that the district court did not err. Under Minn. Stat. § 548.14, "[a]ny judgment obtained . . . by means of perjury, subornation of perjury, or any fraudulent act, practice, or representation of the prevailing party, may be set aside in an action" brought within three years after the aggrieved party discovers such perjury or fraud. For an action brought under the statute to survive a motion to dismiss, it is insufficient to assert mere allegations of false or perjured testimony by the prevailing party. *See Hass v. Billings*, 43 N.W. 797, 799 (Minn. 1889). And a party may not relitigate the same issue and same questions of fact through such an action. *Betcher v. Midland Nat. Bank*, 209 N.W. 325, 326 (Minn. 1926).

6. Appellant's claim is legally insufficient. Appellant admits that he "was aware" of the CPS workers' actions before the judicial respondents entered the orders, and he has unsuccessfully challenged the district court's orders in prior appeals. *See*, *e.g.*, *Rued v. Rued*, No. A22-0812, 2023 WL 193669, at *1 (Minn. App. Jan. 17, 2023) (affirming parenting-time order); *Rued v. Rued*, No. A21-0798, 2022 WL 2298992, at *1 (Minn. App. June 27, 2022) (affirming child-custody order), *rev. denied* (Minn. Sept. 28, 2022), *cert. denied*, 143 S. Ct. 1082 (2023). Accordingly, appellant cannot relitigate these issues by bringing a new action under Minn. Stat. § 548.14.

7. Appellant also contends that the district court erred by concluding that the complaint sets forth insufficient factual allegations as to the judicial respondents. "A

pleading is sufficiently detailed when it gives fair notice to the adverse party of the incident giving rise to the suit with sufficient clarity to disclose the pleader's theory upon which his claim for relief is based." *Halva*, 953 N.W.2d at 503 (quotation omitted); *see also Mumm v. Mornson*, 708 N.W.2d 475, 481 (Minn. 2006) (explaining that the purpose of a complaint is to "put the defendant on notice of the claims against him"). "A claim is sufficient against a motion to dismiss if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded." *Walsh*, 851 N.W.2d at 602 (emphasis omitted) (quotation omitted).

8. Even accepting the factual assertions as true, the complaint is not sufficient to put the judicial respondents on notice of what appellant's claim is. The complaint merely alleges that certain individuals made false statements throughout court proceedings, that the judicial respondents relied on such information, and that the judicial respondents issued orders that are "fraud upon the court." It does not identify what information was false, other than alleging that the district court committed fraud by making findings about allergy tests and expert testimony. Appellant has repeatedly raised such claims, and we previously noted in an order opinion that "[a]llergy tests have shown that the child is allergic to neither wheat nor dairy." *Rued v. Rued*, No. A23-1235, 2024 WL 1986081, at *1 (Minn. App. Apr. 29, 2024), *rev. denied* (Minn. Aug. 6, 2024), *cert. denied*, 145 S. Ct. 1175 (2025).

9. Appellant next challenges the district court's order declaring him a frivolous litigant, arguing that his claims cannot be frivolous because they have not been litigated. A district court's determination that a party is a frivolous litigant is reviewed for an abuse of discretion. *See Szarzynski v. Szarzynski*, 732 N.W.2d 285, 290, 294-95 (Minn. App.

2007). A district court abuses its discretion if its findings of fact are unsupported by the record or if it improperly applies the law. *Honke v. Honke*, 960 N.W.2d 261, 265 (Minn. 2021).

10. A frivolous litigant is a person who repeatedly relitigates a final determination, repeatedly serves or files frivolous documents, or "institutes and maintains a claim that is not well grounded in fact and not warranted by existing law." Minn. R. Gen. Prac. 9.06(b). After notice and hearing on a motion to have someone declared a frivolous litigant, a district court may require the frivolous litigant to post security or impose preconditions that the frivolous litigant must meet to serve or file any new claims, motions, or requests. *Id.*, 9.01. The district court must consider the seven factors identified in Minn. R. Gen. Prac. 9.02(b) in making its determination. The court does not have to make specific findings on every factor if the findings that it did make demonstrate that it considered the relevant factors. *Peterka v. Peterka*, 675 N.W.2d 353, 360 (Minn. App. 2004) (citing *Rosenfeld v. Rosenfeld*, 249 N.W.2d 168, 172 (Minn. 1976)).

11. The district court did not abuse its discretion when it determined that appellant is a frivolous litigant and imposed sanctions on him, including requiring him to post security and meet preconditions prior to filing documents in the district court file. It considered each of the seven factors and its following determinations are supported by the record: (1) appellant attempts to relitigate issues that have already been litigated; (2) appellant will not likely prevail on his claim given his past appeals and respondents' motions to dismiss; (3) prior court decisions determined that appellant attempts to bankrupt his ex-wife by filing claims, and his claims that the child he shares with Catrina is sexually

and physically abused are without merit; (4) appellant's new strategy of filing new lawsuits will subject respondents to "years of litigation, once again flooding the appellate and district courts" with filings; (5) we can infer that the district court considered the effectiveness of a prior sanction imposed in appellant's family court division file; (6) a security initially set at $50,000 will ensure adequate safeguards and that the drain on respondents' time and resources is mitigated and, to the extent appropriate, adequately compensated; and (7) appellant "has no incentive to change his behavior" without a financial deterrent.

12. Finally, in their brief to this court, Catrina and her attorney requested that this court strike portions of appellant's statement of facts "that are not candid or supported with clear reference to the record." A request for relief "shall be made by serving and filing a written motion." Minn. R. Civ. App. P. 127. Catrina and her attorney did not file such a motion. As such, we do not consider this request. Even if we did, it would be denied because we relied on appellant's second amended complaint and the district court's orders in considering his claims.

IT IS HEREBY ORDERED:

1. The district court's judgment is affirmed.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: 5/12/25

BY THE COURT

Francis J. Connolly

Judge Francis J. Connolly