This opinion is nonprecedential except as provided by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
A23-0933

In re the Matter of:

Faith Zen Riverstone, petitioner,
Appellant,

vs.

Jamie Anne Stempfley,
Respondent.

Filed October 28, 2024
Affirmed
Bratvold, Judge

Hennepin County District Court
File No. 27-FA-21-5895

Faith Riverstone, St. Louis Park, Minnesota (pro se appellant)

Emily Cooper, Cooper Law, LLC, Minneapolis, Minnesota (for respondent)

Lauren Hagert, St. Paul, Minnesota (guardian ad litem)

Considered and decided by Johnson, Presiding Judge; Bratvold, Judge; and Smith, John, Judge.[*]

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant is self-represented and seeks review of a district court order finding her to be a frivolous litigant and imposing preconditions before she files motions or other documents, as provided in Minn. R. Gen. Prac. 9.01. Appellant petitioned for third-party custody of her grandchild, who is respondent's daughter, and also sought grandparent visitation. Because the district court did not abuse its discretion in determining that appellant is a frivolous litigant and imposing reasonable preconditions on future filings by appellant, we affirm.

FACTS

In November 2021, appellant Faith Zen Riverstone petitioned for third-party custody of her grandchild. She sought sole legal and sole physical custody of the child as a de facto custodian or as an interested third party under Minn. Stat. §§ 257C.01-.08 (2022).[1] She asserted that respondent Jamie Anne Stempfley, Riverstone's daughter and the child's mother, failed to take care of the child. The district court granted Riverstone ex parte temporary sole physical custody. Later, the district court modified the temporary order to joint physical custody of the child shared by Riverstone and Stempfley.

[1] We cite the most recent version of Minn. Stat. §§ 257C.01-.08 because they have not been amended in relevant part. *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 cite the current versions of other statutes cited in this opinion.

After a review hearing in January 2022, the district court vacated the temporary order and directed that Stempfley have sole legal and sole physical custody. Riverstone moved for temporary visitation, which the district court denied. Riverstone later amended her petition to request, in the alternative, grandparent visitation with the child, relying on Minn. Stat. §§ 518.1752 and 257C.08 (2022).

The district court scheduled an evidentiary hearing on Riverstone's amended petition for November 2022. In the month before the hearing, Riverstone filed many motions and documents in district court; for example, Riverstone filed

- an amended motion for continuance on October 22, 2022,
- a motion to shorten time for discovery on October 23, 2022,
- a motion for subpoenas on October 24, 2022,
- an 18-page motion to compel discovery, with 51 pages of exhibits and a 53-page affidavit, on November 2, 2022,
- a motion for independent forensic psychological evaluation of Stempfley and the child on November 3, 2022,
- a motion to compel discovery on November 7, 2022,
- trial "binders" with proposed exhibits spanning hundreds of pages on November 9 and 13, 2022, and
- an amended motion for continuance, a motion for subpoenas, a motion to shorten time for discovery, an amended motion to compel discovery, and an amended motion for forensic evaluation, all on November 14, 2022.

On November 9, 2022, Stempfley moved the district court to "find that [Riverstone] is engaged in frivolous litigation pursuant to Minnesota Rule of General Practice 9 and require security or impose sanctions as allowed under the rules to control the conduct."

At a hearing on November 16, 2022, the evidentiary hearing on the amended petition was continued and reset for March 2023. On January 17, 2023, Riverstone filed 11 discovery-related motions.

In an order dated January 27, 2023, the district court stated that the case came before it "administratively" and set a hearing for February 7, 2023, to determine whether Riverstone is a frivolous litigant and what measures would be appropriate, if any. The order explained the district court's reasoning. First, the district court ruled that Stempfley's motion to find Riverstone to be a frivolous litigant "was not properly brought because Minnesota Rule of General Practice 9.01 requires such motions to be brought 'separately from other motions or requests.'" Second, the district court noted that rule 9.01 also provides that a district court could determine a party to be a frivolous litigant "on its own initiative after notice and hearing." Observing that, "over at least the past three months, [Riverstone] has filed a high number of motions/pleadings without obtaining a hearing date first," the district court "determined that it is appropriate to schedule a hearing on the matter of whether [Riverstone] is a frivolous litigant and what the appropriate sanction(s) might be."

After the February 7 hearing, the district court filed an order finding Riverstone to be a frivolous litigant. The district court made specific findings to support its frivolous-litigant determination, then applied relevant factors provided in Minn. R. Gen. Prac. 9.02 to determine "whether to require security or impose sanctions." The district court found that "three factors weigh in favor of" sanctions, "two factors weigh against, one factor is inapplicable, and one factor is neutral." The district court reasoned that "it is crucial to the fair and efficient administration of justice that both parties comply with the rules governing motion practice and filing of pleadings, as well as decorum towards the Court." The district court found that it and Stempfley "have been unduly burdened by the

length, volume and numerosity of [Riverstone's] filings." In particular, the district court stated that it "has limited time and staff, and many cases on its docket."

The district court explained that Riverstone's "most significant issues" were that she was "filing frivolous documents which are not part of a proper motion filing, conducting unnecessary discovery and engaging in written tactics that are frivolous or intended to cause delay," she "served and filed excessive numbers of discovery requests, filed excessively lengthy pleadings, filed a large number of motions, and filed miscellaneous documents/affidavits which are not part of a proper motion filing," and she did "all of the foregoing without complying with the Rules of General Practice, which require obtaining a motion hearing date prior to filing motions." It also found that Riverstone "filed documents making inappropriate criticisms and commentaries on the Court, [Stempfley] and/or the Guardian ad Litem."

The district court concluded that preconditions on Riverstone's future filings "are necessary to ensure that the type of problems that the Court has encountered do not repeat themselves." It noted that the preconditions to Riverstone's future filings "are not intended to be punitive, but rather simply to promote compliance" with the Minnesota General Rules of Practice. The district court found that "no less severe sanction(s) than set forth below will sufficiently protect the rights of the other litigants and the Court."

The district court then ordered that Riverstone comply with preconditions before filing motions and other documents in district court. Specifically, the district court ordered that Riverstone must (a) obtain a hearing date before filing a motion, (b) request permission to file any motions for which she does not wish to have a hearing, (c) limit affidavits to 20

pages, (d) abstain from filing trial exhibits and correspondence with the court, and (e) limit her filings to "proper motion filing" as provided in Minn. R. Gen. Prac. 303.03 or a pretrial order or other court order or by "permission from the Court."

Riverstone appeals.

DECISION

While we are sympathetic to the difficulties a self-represented litigant faces in a family-law or any other legal matter, we begin by observing that all litigants must follow court rules as a matter of fairness, respect, and orderly process. "While an appellant acting pro se is usually accorded some leeway in attempting to comply with court rules," they are "not relieved of the burden of, at least, 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 Gruenhagen v. Larson*, 246 N.W.2d 565, 569 (Minn. 1976) (stating that, generally, a court will not modify ordinary rules and procedures because a pro se party lacks the skills and knowledge of an attorney). In short, "[a]lthough some accommodations may be made for pro se litigants, this court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules." *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001).

Riverstone makes two arguments challenging the district court's order determining that she is a frivolous litigant: (1) the district court "failed to find" that she met "any definition" of a frivolous litigant under Minn. R. Gen. Prac. 9.06(b); and (2) the district court erred by considering factors "outside of the scope of rule 9" in making its determination. We understand Riverstone to be arguing that the district court abused its

discretion in ruling that she is a frivolous litigant and in ordering her to comply with preconditions to filing.[2]

Riverstone includes several other legal issues or "questions" in her brief to this court but does not develop any arguments on these issues or cite any legal authority. An assignment of error in a brief based on "mere assertion" and not supported by argument or legal authority is forfeited unless prejudicial error is "obvious on mere inspection." *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971); *see State v. Andersen*, 871 N.W.2d 910, 915 (Minn. 2015) (applying this aspect of *Schoepke*); *Scheffler v. City of Anoka*, 890 N.W.2d 437, 451-52 (Minn. App. 2017) (same), *rev. denied* (Minn. Apr. 26, 2017); *Ganguli v. Univ. of Minn.*, 512 N.W.2d 918, 919-20 n.1 (Minn. App. 1994) (declining to address allegations in an appellate brief unsupported by legal analysis or citation). Setting aside the two issues already mentioned, no error is obvious upon mere inspection. We therefore consider neither Riverstone's assertions about violations of her First Amendment and due-process rights nor her unsupported assertion that the district court judge was not impartial.[3]

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[2] Stempfley did not file a respondent's brief. We proceed to determine the appeal on the merits, as noted in a separate order from this court. *See* Minn. R. Civ. App. P. 142.03.

[3] We briefly address one troubling comment in Riverstone's brief, which asserts that the district court "instructed" her that "she may not object to the new claims being brought against her." This assertion lacks any merit. At the beginning of the February 7, 2023 hearing, the district court instructed both parties that all objections "will be reserved" and that it would not permit either side to interrupt with objections. The transcript shows that Riverstone was given ample opportunity to address the district court at the hearing.

We review a district court's frivolous-litigant determination for an abuse of discretion. *See Szarzynski v. Szarzynski*, 732 N.W.2d 285, 295 (Minn. App. 2007) (reversing determination that litigant was a "nuisance" because "it is unclear whether the district court applied" Minn. R. Gen. Prac. 9.01 and noting that a district court's use of an incorrect standard is an abuse of discretion). "A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

I. The district court did not abuse its discretion by determining that Riverstone is a frivolous litigant.

Rule 9 addresses frivolous litigation generally. Minnesota General Rules of Practice 9.01 through 9.07 include provisions governing motions to order relief from frivolous litigation, hearings, factors to be considered before granting relief, required findings, and definitions, among other provisions.[4] Either a party by motion[5] or a district court, "on its own initiative and after notice and hearing," may seek an order requiring security or "imposing preconditions" on the service or filing of claims, motions, or requests. Minn. R.

[4] For example, rule 9 recognizes a right to immediate appeal—"[a]n order requiring security or imposing sanctions under this rule shall be deemed a final, appealable order." Minn. R. Gen. Prac. 9.05.

[5] If a party moves for a frivolous-litigant order, they must move "separately from other motions or requests" and file the motion 21 days after serving it if the challenged claim, motion, or request is not "withdrawn or appropriately corrected" within that time. Minn. R. Gen. Prac. 9.01. While Riverstone claims that this "safe-harbor" provision applies to the district court's decision to set a frivolous-litigant hearing on its own initiative, the rule does not support that claim, nor does Riverstone offer any other legal authority or reasoning for her position.

Gen. Prac. 9.01. "At the hearing upon such motion the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material to the ground of the motion." Minn. R. Gen. Prac. 9.02(a). "[C]ourts should be certain that all reasonable efforts have been taken to ensure that affected parties are given notice and an opportunity to be heard." Minn. R. Gen. Prac. 9 advisory comm. cmt.

If the district court determines that a party is a frivolous litigant and then requires security or sanctions, "it shall state on the record its reasons supporting that determination." Minn. R. Gen. Prac. 9.02(c). An order imposing preconditions on filing "new claims, motions, or requests shall only be entered with an express determination that no less severe sanction will sufficiently protect the rights of other litigants, the public, or the courts." *Id.*

Riverstone contends that the district court did not make proper findings to support its ruling that she is a frivolous litigant and appears to argue also that the district court's findings are not supported by the record. We consider her contention by examining rule 9, which provides three alternatives for the definition of a "frivolous litigant." Minn. R. Gen. Prac. 9.06(b)(1)-(3). The district court found that Riverstone met neither the first nor the third alternative definition of a frivolous litigant under rule 9.06(b)(1) or (b)(3).[6] Instead, the district court focused on the second alternative definition of a frivolous litigant:

> A person who in any action or proceeding repeatedly serves or files frivolous motions, pleadings, letters, or other

[6] The first alternative definition of frivolous litigant is as follows:

> A person who, after a claim has been finally determined against the person, repeatedly relitigates or attempts to relitigate either

> documents, conducts unnecessary discovery, or engages in oral or written tactics that are frivolous or intended to cause delay[.]

Minn. R. Gen. Prac. 9.06(b)(2).

The district court made specific factual findings in support of its determination that, under the second alternative definition, Riverstone is a frivolous litigant:

> 1. [Riverstone] has filed motions without securing a hearing date. *See* Minn. R. Gen. Prac. 303.01(b), 303.03(a)(i). This has led to situations where the Court has been unaware of recent filings and "discovers" that multiple motions have been filed by [Riverstone].
>
> 2. [Riverstone] has filed a high volume of filings.
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> 3. [Riverstone's] filings are often lengthy.
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> 4. [Riverstone's] discovery contained an excessively high number of discovery requests. For example, [Riverstone] served 488 requests for admission upon [Stempfley]. The Court issued an Order filed February 3, 2023 requiring [Riverstone] to reduce the number of requests to 50 or less. At the Rule 9 hearing, [Riverstone] admitted that her discovery process was akin to a "fishing expedition." The

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> (i) the validity of the determination against the same party or parties as to whom the claim was finally determined, or
>
> (ii) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same party or parties as to whom the claim was finally determined[.]

Minn. R. Gen. Prac. 9.06(b)(1).

The third alternative definition of frivolous litigant is as follows:

> A person who institutes and maintains a claim that is not well grounded in fact and not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law or that is interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigating the claim.

Minn. Gen. R. Prac. 9.06(b)(3).

> inordinately high number of discovery requests which [Riverstone] has previously brought in this case is concerning.
>
> 5. [Riverstone] repeatedly uses inappropriate language regarding the Court, the opposing party and the Guardian ad Litem in her filings. . . .
>
> 6. [Riverstone] has filed documents which are not proper motion filings under Rule 303, but rather "stand-alone" filings that are not part of any motion before the Court.

On appeal, Riverstone challenges the first finding and argues that Minn. R. Gen. Prac. 303 does not require a party to obtain a hearing date before filing a motion, but that she did anyway. We disagree with Riverstone's reading of the applicable rule. Rule 303.01(b) requires: "All motions *shall* be accompanied by *either* an order to show cause in accordance with Minn. R. Gen. Prac. 303.05 *or* by *a notice of motion which shall state*, with particularity, *the date*, time, and place *of the hearing* and the name of the judicial officer if known." Minn. R. Gen. Prac. 303.01(b) (emphasis added).

More importantly, the record supports the district court's finding that Riverstone failed many times to obtain a hearing date before filing motions. Similarly, our review shows that the record supports the district court's other findings that Riverstone's conduct is described by Minn. R. Gen. Prac. 9.06(b) and is therefore frivolous.

Riverstone contends that the district court erred because it found her motions were not made in bad faith and that rule 9.06(b)(2) "requires a showing of bad faith." Riverstone cites no authority for her assertion that bad faith is a required finding. As a result, we need not consider this argument. *See Schoepke*, 187 N.W.2d at 135 (stating that an assignment of error in a brief based on "mere assertion" and not supported by argument or authority is forfeited unless prejudicial error is "obvious on mere inspection"). No error is obvious, and

while other parts of rule 9 refer to bad faith, rule 9.06(b)(2) does not. *See* Minn. R. Gen. Prac. 9.06(b)(2).

We conclude that the district court did not abuse its discretion in determining that Riverstone is a frivolous litigant.

II. The district court did not abuse its discretion in ordering Riverstone to comply with preconditions for filing motions and other documents.

Minnesota General Rule of Practice 9.02(b) provides that a district court must consider seven factors "[i]n determining whether to require security or to impose sanctions" on a frivolous litigant:

> (1) the frequency and number of claims pursued by the frivolous litigant with an adverse result;
>
> (2) whether there is a reasonable probability that the frivolous litigant will prevail on the claim, motion, or request;
>
> (3) whether the claim, motion, or request was made for purposes of harassment, delay, or vexatiousness, or otherwise in bad faith;
>
> (4) injury incurred by other litigants prevailing against the frivolous litigant and to the efficient administration of justice as a result of the claim, motion, or request in question;
>
> (5) effectiveness of prior sanctions in deterring the frivolous litigant from pursuing frivolous claims;
>
> (6) the likelihood that requiring security or imposing sanctions will ensure adequate safeguards and provide means to compensate the adverse party;
>
> (7) whether less severe sanctions will sufficiently protect the rights of other litigants, the public, or the courts.

The district court assessed all seven factors with regard to Riverstone, finding that factors 1 and 3 weighed against a frivolous-litigant finding, factor 2 was neutral, factor 5 was inapplicable, and factors 4, 6, and 7 weighed in favor of a frivolous-litigant finding.

Riverstone appears to contend that the district court considered factors "outside the scope of [r]ule 9." We find no support for this claim in the district court's order. Even if we did, rule 9.02 provides that a "court may consider any other factors relevant to the determination of whether to require security or impose sanctions" on a frivolous litigant. Minn. R. Gen. Prac. 9.02(b). We proceed to consider the district court's analysis of factors 4, 6, and 7 as factors the district court weighed in favor of imposing preconditions on Riverstone's filings.

Factor 4: This factor examines any injury to "the efficient administration of justice." Minn. R. Gen. Prac. 9.02(b)(4). The district court found that Riverstone's failure to follow applicable rules led to "a burden on the efficient administration of justice." In support of this conclusion, the district court's analysis follows four points. First, the district court noted that Riverstone filed an excessive number of motions because she "[f]il[ed] motions on October 22, 2022, October 23, 2022, October 24, 2022, November 2, 2022, November 3, 2022, November 7, 2022, November 14, 2022 (6 separate motion filings), January 17, 2023 (10 separate motion filings), February 20, 2023 (2 motions), February 21, 2023." Next, the district court found that Riverstone filed six motions in 2022 and 2023 without obtaining a hearing date.

Third, the district court found that Riverstone's motions and pleadings were excessively long, specifying that her "Rule 37 Motion to Compel Discovery (filed 11/14/22) contained 77 pages," "Amended Rule 37 Motion to Compel Discovery (filed 1/17/23) contained 77 pages," "Motion for Discovery (filed 1/17/23) contained 117 pages," "Motion for Discovery (filed 1/17/23) contained 117 pages," "Affidavit (filed 2/2/23)

contained 53 pages," "Statement of Parental Relationship & Bond (filed 1/4/22) contained 103 pages," "Memorandum of Law (filed 3/11/22) contained 49 pages," and her "Response to the Guardian ad Litem's First Report contained 108 pages."

Finally, the district court found that Riverstone "has filed many documents which are not authorized pleadings under Rule 303, a pretrial and/or trial order" and which "contained ad hominem attacks/criticisms on the participants in this case, including the Court, [Stempfley], and the Guardian ad Litem."

Factor 6: This factor examines "the likelihood that requiring security or imposing sanctions will ensure adequate safeguards." Minn. R. Gen. Prac. 9.02(b)(6). The district court found that imposing sanctions would "likely ensure adequate safeguards so that the Court (and [Stempfley]) are not overly burdened by the manner in which [Riverstone] is filing pleadings and/or improper documents."

Factor 7: This factor considers whether "less severe sanctions will sufficiently protect the rights of other litigants, the public, or the courts." Minn. R. Gen. Prac. 9.02(b)(7). The district court found that, "without some structure in place," Riverstone would likely continue to disregard the rules, "mak[ing] the upcoming trial very burdensome on the Court and [Stempfley]." The district court also concluded there was "no other effective manner to protect the rights of [Stempfley] and the Court than to impose certain sanctions" and that less severe sanctions would not suffice.

Based on our review, the record supports the district court's thorough analysis of factors 4, 6, and 7 and its conclusion that Riverstone's filings amounted to "a burden on the efficient administration of justice."

For all these reasons, we conclude that the sanctions the district court imposed on Riverstone are reasonable and measured. These preconditions to filing motions and other documents adequately address the district court's and Stempfley's concerns and do not unnecessarily limit Riverstone from presenting her requests for relief.[7] Therefore, the district court did not abuse its discretion in determining that Riverstone is a frivolous litigant and ordering Riverstone to comply with preconditions for filing motions and other documents.

Affirmed.

[7] In the closing section of her brief to this court, Riverstone appears to claim that the district court has failed to accommodate her and describes herself as a person with disabilities. Riverstone does not cite support for this in the record or offer any legal analysis. Thus, we need not consider the claim further. *See Schoepke*, 187 N.W.2d at 135 (stating that an assignment of error in a brief based on "mere assertion" and not supported by argument or authority is forfeited unless prejudicial error is "obvious on mere inspection"). We add, however, that our review of the record shows that the district court repeatedly acquiesced in Riverstone's reasonable requests for accommodations.