

STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1383



In re the Matter of:

Brian David Fleming,

Appellant,

vs.

Commissioner of Douglas County Human
Services,

Respondent.

ORDER OPINION

Douglas County District Court
File No. 21-CV-23-538

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

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

1. Appellant Brian David Fleming filed this appeal to challenge a district court order that dismissed Fleming's appeal from a decision of the Minnesota Commissioner of Human Services (the commissioner) under Minn. Stat. § 256.045, subd. 7 (2024). The sole basis for the district court's dismissal order was its determination that it lacked subject-matter jurisdiction over the appeal because Fleming had not properly served the notice of appeal on the adverse parties, specifically, the commissioner and respondent Douglas

County Social Services.¹ Fleming argued, in relevant part, that the district court erred by determining that it lacked subject-matter jurisdiction.

2. In a May 28, 2024 nonprecedential opinion, we affirmed the district court’s order. *Fleming v. Comm’r of Hum. Servs.*, No. A23-1383, 2024 WL 2722162 (Minn. App. May 28, 2024), *vacated* (Minn. Nov. 19, 2024).

3. Fleming petitioned for review by the supreme court. The supreme court granted the petition and stayed the matter pending its decision in *Rued v. Commissioner of Human Services*, 13 N.W.3d 42 (Minn. 2024).

4. In *Rued*, the supreme court held “that the time limit in section 256.045, subdivision 7, is a waivable limitations period and not a requirement for subject matter jurisdiction, and [it] therefore reverse[d] the decision of the court of appeals concluding otherwise.” 13 N.W.3d at 44. The supreme court further held that “[a]dequate service of the notice of appeal under section 256.045, subdivision 7, . . . is an independent statutory requirement related to personal jurisdiction.” *Id.* The supreme court concluded that the county in *Rued* had forfeited appellate review related to personal jurisdiction by failing to challenge on appeal the district court’s determination that the county had waived that defense. *Id.* at 52. But the supreme court concluded that “neither the district court nor the Court of Appeals squarely considered a defense based on the limitations period.” *Id.* at 50.

¹ The title of this matter identifies respondent as the “Commissioner of Douglas County Human Services.” The correct name of respondent is Douglas County Social Services, which is led by a director, not a commissioner. But “[t]he title of the action shall not be changed in consequence of the appeal.” Minn. R. Civ. App. P. 143.01.

The supreme court therefore “remand[ed] to the district court so that the County [could] either waive its limitations defense or move for dismissal on that basis.” *Id.*

5. Following *Rued*, the supreme court issued an order that vacated our previous decision in this matter and remanded the matter to us for reconsideration. We reinstated the appeal and allowed the parties to file supplemental memoranda. Only Fleming filed a supplemental memorandum.

6. In his supplemental memorandum, Fleming argues that the district court erred by dismissing his appeal under Minn. Stat. § 256.045, subd. 7, for lack of subject-matter jurisdiction and that the matter should be remanded to the district court under *Rued*. We agree.

7. Following *Rued*, it is clear that the district court erred in dismissing Fleming’s appeal for lack of subject-matter jurisdiction. We therefore reverse the district court’s dismissal of the appeal on that ground. And, because subject-matter jurisdiction was the only basis argued by the county for dismissal and the only basis for the district court’s decision, it is appropriate to remand to the district court for further proceedings, which could include motions to dismiss for lack of compliance with the 30-day time limit of Minn. Stat. § 256.045, subd. 7, and lack of personal jurisdiction. *See Rued*, 13 N.W.3d at 51.

IT IS HEREBY ORDERED:

1. The district court’s order is reversed, and this matter is remanded to the district court for further proceedings.

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: April 8, 2025

BY THE COURT



Judge Peter M. Reyes, Jr.