

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CASE TYPE: HARASSMENT

In the Matter of:

Court File No. 62-HR-CV-24-963

Madeline Sally Machla Lee,

Petitioner,

vs.

**PETITIONER'S RESPONSE TO
RESPONDENT'S MOTION TO
VACATE**

Kellye Strickland,

Respondent.

INTRODUCTION

Petitioner seeks an order denying Respondent's Motion to Vacate the active Harassment Restraining Order.

DOCUMENTS WHICH THIS RESPONSE RELIES UPON

Exhibit 1: Merrimack County Sheriff's Unserved Return Letter, dated 8/29/2024

Exhibit 2: Continuance Order issued in this matter, dated 9/5/2024

Exhibit 3: Cease and Desist Letter from Kellye Strickland to Petitioner

Exhibit 4: Maricopa County Sheriff's Unserved Return Letter, dated 10/2/2024

Exhibit 5: Continuance Order issued in this matter, dated 10/3/2024

Exhibit 6: Affidavit and Request for Publication (Harassment), filed 11/7/2024

Exhibit 7: Continuance Order issued in this matter, dated 11/8/2024

Exhibit 8: First Class Mail, Return to Sender, post-marked 11/12/2024

Exhibit 9: Order Granting Harassment Restraining Order After Hearing issued in this matter, dated 12/12/2024

Exhibit 10: Maricopa County Sheriff's Service Confirmation Letter, dated 3/19/2025

Exhibit 11: Respondent's First Motion to Vacate, filed 4/17/2025

Exhibit 12: Transcript of May 23, 2025 Hearing in this matter, dated 08/12/2025

Exhibit 13: Order Denying Motion issued in this matter, dated May 23, 2025

FACTUAL HISTORY

On July 31, 2024, Petitioner Madeline Lee filed a Petition for Ex Parte Harassment Restraining Order in Ramsey County District Court. The Petition was denied on August 9, 2024 and a hearing was scheduled for September 5, 2024. Petitioner attempted to serve Respondent Kellye Strickland at her last known address in New Hampshire. Service was not made because Respondent no longer lived at that address, as was confirmed by Deputy Kaitlyn N. Burt. (Ex. 1). The September 5 hearing was continued to October 3, 2024 because the Respondent had not been personally served. (Ex. 2).

On August 18, 2024 Petitioner received a Cease and Desist letter from Respondent, where Respondent noted her address as "1930 N Country Club Drive, Mesa, Arizona 85203." (Ex. 3). After receiving the Cease and Desist letter with an updated address for Respondent, Petitioner attempted service at that 1930 N Country Club Drive address. However, service was not effective because it was not Kellye Strickland's address. (Ex. 4). On October 3, 2024, the hearing was again continued because the Respondent had not been personally served and Petitioner needed time to file a request for alternative service pursuant to Minn. Stat. § 609.748, subd. 3(b). (Ex. 5).

On November 7, 2024, Petitioner filed an Affidavit and Request for Publication form. (Ex. 6). In the affidavit, Petitioner swore that "Personal Service was attempted by the sheriff and was not made because it is believed that the Respondent is avoiding service by hiding or other

means, AND a copy of the Petition and Order or Notice of Hearing was mailed to Respondent at Respondent's last known address or place of business.”

The third hearing was held on November 8, 2024 and was again continued to allow for service at Respondent's last known address by first class mail. (Ex. 7). The Ramsey County Domestic Abuse / Harassment Office attempted service by first class mail, requesting a forwarding address from Respondent's last known address, the address she provided to Petitioner three months prior in her Cease and Desist letter. This service attempt was returned to sender as undeliverable, with no way of providing a forwarding address. (Ex. 8). The inability to provide a forwarding address suggests that Respondent never lived at the address she provided to Petitioner in her August Cease and Desist letter.

On December 12, 2024, after three continuances and three attempts at service, Referee Elizabeth Clysdale issued a Harassment Restraining Order noting, “The Respondent failed to appear after service by U.S. Mail. This order is being issued by default.” (Ex. 9). That Order remains in effect.

On or about February 3, 2025 Petitioner learned Respondent's actual current address. Petitioner notified the Court of the updated address and Respondent was effectively served on February 27, 2025. (Ex. 10) On April 17, 2025 Respondent filed a Motion to Vacate and a Motion Hearing was immediately scheduled for May 23, 2025. (Ex. 11). At the May 23 hearing, Respondent admitted to knowingly providing a false address to Petitioner. (Ex. 12 at 13:10-13). Based upon that admission, Referee Jenese Larmouth denied Respondent's Motion finding that Respondent had been evading service and that Service by Publication or Alternative Means was appropriate. (Ex. 12 at 14:10-12), (Ex. 13). Respondent then filed a Second Motion to Vacate on July 11, 2024.

ARGUMENT

Respondent does not meet the burden of proof required to prevail in a Rule 60.02 motion for relief from a final judgment. The relief Respondent requests is barred by the common law principal of collateral estoppel.

I. Respondent's Rule 60.02 argument is barred by collateral estoppel.

Collateral estoppel precludes parties to an action from presenting evidence that would result in the relitigation of a previously litigated issue. *State v. Lemmer*, 736 N.W.2d 650, 658 (Minn. 2007). Collateral estoppel applies when:

- (1) The issue was identical to one in a prior adjudication; (2) there was a final judgment of the issue on the merits; (3) the estopped party was a party in the prior adjudication; (4) the estopped party was given a full and fair opportunity to be heard on the adjudicated issue. *Willems v. Commissioner of Pub. Safety*, 333 N.W.2d 619, 621 (Minn. 1983).

a. Issue in Litigation

In their most recent Motion to Vacate, Respondent stated “Under Minn. R. Civ. P. 60.02(d), a court must vacate any judgment or order that is void. A judgment is void where the issuing court lacked personal jurisdiction over the party against who the judgment was entered.” Respondent’s first Motion to Vacate centered on the issue of lack of service and personal jurisdiction as well. (Exs. 11, 12). At the prior motion hearing, Respondent stated “No jurisdiction was established over me because there was no service to me.” (Ex. 12, Tr. 6:6-7). She continued, “Due to the four documented failed services over the course of approximately 4 months, no jurisdiction was established.” (Ex. 12, Tr. 6:19-21). Respondent Strickland is attempting to move the court on the exact issue that was litigated on May 23, 2025. Factor one, identical issues in litigation, is met.

b. Final Judgment of the Issue on the Merits

At the May 23, 2025 hearing, the Honorable Jenese Larmouth delivered a final judgment on the issue of service and personal jurisdiction in this matter. Referee Larmouth stated, “I find that Ms. Strickland was properly served as authorized by the court issuing the order for service by alternate means.” (Ex. 12, Tr. 14:10-12). Referee Larmouth reasoned “(T)he affidavit of service that was filed on October 2nd of 2024 states that they went to the address that Ms. Strickland just confirmed that had told the respondent was her address, which is 1930 North Country Club Drive in Mesa, Arizona. And so when the sheriff’s deputy then files an affidavit stating that they attempted personal service at that address and weren’t able to do so, they did their due diligence. And the court also did their due diligence in organizing service at that address.” (Ex. 12, Tr. 14:21-25, 15:1-3). Referee Larmouth concluded saying, “In fact, it suggests to me, based on the fact that you deliberately provided a false address to Ms. Lee, that you intentionally evaded participating in this proceeding.” (Ex. 12, Tr. 15:20-23). It is clear that Referee Jenese Larmouth made a final judgment on the issue of personal service in this matter. The second collateral estoppel factor is met.

c. The estopped party was a party to the prior adjudication

Respondent was clearly a party to the prior adjudication, as can be seen in the caption of the transcript for the previous motion hearing where this issue was adjudicated. (Ex. 12). The third factor in establishing collateral estoppel is met.

d. Full and Fair Opportunity to be Heard

Respondent had a full and fair opportunity to be heard on the issue of service and personal jurisdiction at the May 23, 2025 hearing. Minnesota law does not even require that a hearing exist in order to fulfill this factor. *See In re Miller*, 153 B.R. 269, 274 (Bankr. D. Minn.

1993) (holding a full and fair opportunity to be heard was met when the party had an opportunity to litigate the issue and failed to do so). We satisfy this factor even more clearly than the case cited above. Respondent Strickland was present for, and presented argument in a motion hearing on this exact issue. Respondent had a full and fair opportunity to be heard. The fourth factor in establishing collateral estoppel is met.

CONCLUSION

Because all four collateral estoppel factors are met in regard to the personal jurisdiction and service issues that Respondent's motion relies upon, Petitioner respectfully requests the Court deny Respondent's Rule 60.02(d) motion.

BARNA, GUZY & STEFFEN

Dated: August 13, 2025

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