STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0661

In Re: R.A. Morin Trust, U/A/D, April 1, 2014, As Amended,

and

Mark C. Morin, et al.,
Respondents,

vs.

Paul L. Morin,
Appellant,

and

In re the Estate of: Robert A. Morin, Deceased,

and

In re the Trust of Robert A. Morin Trust, U/A/D, April 1, 2014, as Amended.

Filed January 8, 2024
Affirmed
Cleary, Judge[*]

Dakota County District Court
File Nos. 19HA-PR-21-434, 19HA-CV-21-1071,
19HA-CV-21-1056, 19HA-CV-21-2516

Sean M. Schniederjan, Trojack & Schniederjan Law Office, P.A., West St. Paul, Minnesota (for appellant)

Joseph J. Cassioppi, Anne Rondoni Tavernier, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for respondents Mark C. Morin, Lisa Camenzind, and Ann Morin-Jansen)

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

Considered and decided by Gaïtas, Presiding Judge; Segal, Chief Judge; and Cleary, Judge.

NONPRECEDENTIAL OPINION

CLEARY, Judge

In this probate dispute, appellant-son argues that the record does not support the district court's determinations that decedent-father lacked testamentary capacity to amend his estate documents, and that these amendments were the result of undue influence by appellant. Appellant further argues that the district court was biased against him and failed to consider all his arguments. Because the record supports the district court's determinations regarding testamentary capacity and undue influence, and because we further conclude that appellant is not entitled to relief on his remaining arguments, we affirm.

FACTS

Parties and Creation of Trust

This appeal arises out of a dispute over the estate documents of testator Robert Morin, including the Robert A. Morin Trust Agreement dated April 1, 2014 (the trust), his will, and his IRA account. Robert Morin and his wife, Rosemary Morin, have four children: appellant Paul Morin, respondent Mark Morin, respondent Ann Morin-Jansen, and respondent Lisa Camenzind. In 2014, Robert Morin created a revocable trust. This trust appointed his wife as his primary beneficiary, with the remaining trust assets allocated to his four children in equal shares. He elected his daughter Ann Morin-Jansen to serve as

power of attorney and co-trustee. This trust was drafted by his estate-planning attorney, Richard Gabriel.

Animosity Between the Parties

After the trust was in place, animosity developed between Paul Morin and his siblings. This friction became heightened when Paul Morin learned that his parents gave a monetary gift to Ann Morin-Jansen but did not provide financial resources to him. Paul Morin believed that the gift to Ann Morin-Jansen meant that the trust would not be divided equally between the children. He confronted Ann Morin-Jansen and accused her of stealing money from their parents. Ann Morin-Jansen shared Paul Morin's comments with her parents and resigned as power of attorney. Ann Morin-Jansen testified that their parents did not intend for this gift to be deducted from her share of the inheritance. The district court found that Ann Morin-Jansen testified "credibly" on this point. Further, the district court noted that Robert and Rosemary Morin also made large cash gifts over the years to Paul Morin, Lisa Camenzind, and Mark Morin.

Robert Morin's Illness and Rosemary Morin's Death

Robert Morin developed numerous medical problems in the years before his death. According to a doctor, Robert Morin suffered from "significant cognitive and physical decline from at least 2016 through 2020, right up to the time that he passed away." He was admitted to an assisted living center in January 2016. Robert Morin was hospitalized in 2018 for sepsis and confusion, where it was noted that he continued to suffer from dementia and cognitive and functional decline. He moved into a memory care unit in early 2018. In the summer of 2018, Robert Morin's physician stated that he had "advanced Alzheimer's

Dementia and is unable to manage his own financial or personal affairs. His condition is permanent and irreversible." Shortly thereafter, Rosemary Morin's own health declined, and she died in September 2018.

Robert Morin's Amendments to His Estate Documents and His Declining Health

From 2018 through 2020, Robert Morin amended his estate documents three times: in November 2018, October 2019, and January 2020. The district court determined that Robert Morin lacked capacity for the second and third amendments. We briefly address each amendment below.

First Amendment

In November 2018, Robert Morin executed a new will, a first amendment to the trust, and a power-of-attorney designation. He designated Mark Morin and Lisa Camenzind as co-trustees, Mark Morin as his attorney-in-fact, and Lisa Camenzind as successor attorney-in-fact. He also named Lisa Camenzind as his personal representative. Robert Morin retained the provision that all four children would be equal beneficiaries of the trust.

Robert Morin's health continued to worsen throughout 2019. He was hospitalized 3 times in a 6-month period. A nurse evaluated Robert Morin and noticed that he showed "increased cognitive impairment." In February 2019, he was placed in hospice care because he had a terminal condition, suffered from dementia, and could not take care of himself. Between February and August 2019, his mental health further declined, and he required daily care for his survival. He also showed short-term memory problems and executive-functioning problems. A doctor stated that Robert Morin had "moderate to

severe cognitive deficit" and stated, "I would not consider him to be capable of managing finances for healthcare decisions." The doctor also stated that Robert Morin should have limited access to his checkbook.

During this time, co-trustee Lisa Camenzind moved some of Robert Morin's funds to less-risky investments and moved his IRA account to another company. The beneficiaries of this account remained the same, with all four of Robert Morin's children receiving equal shares. The district court found that Paul Morin "went after" Lisa Camenzind following these investment changes. Paul Morin sent Lisa Camenzind profane emails and accused her of "elder abuse." He also suggested to Robert Morin that the other three children were stealing from him. Robert and Rosemary Morin's caretaker believed that Paul Morin was "coaching" his father to make accusations against the other three children. The district court found that "Paul [Morin] fueled Robert [Morin]'s fears about losing his mental capacity." It further found that Paul Morin threatened the caretaker, which led her to stop working for Robert Morin in 2019.

Second Amendment

In October 2019, Robert Morin signed a second trust amendment, will, and power of attorney. A few months before this amendment, Paul Morin accused his siblings and Robert Morin's original attorney, Richard Gabriel, of wrongdoing. Paul Morin hired a new attorney, Sheryl Morrison, to represent his own interests in a petition related to Rosemary Morin's trust, and to help Robert Morin amend his estate documents. Paul Morin worked closely with Sheryl Morrison to make amendments to Robert Morin's estate documents.

The district court found that each "material change" to Robert Morin's estate plan "was communicated [to Sheryl Morrison], in the first instance, by Paul [Morin]."

Paul Morin told Sheryl Morrison that his father was "perfectly competent" at this time. However, the medical records showed that Robert Morin had severe dementia and needed daily care for his basic needs, including feeding.

Sheryl Morrison met with Paul Morin and Robert Morin in October 2019 to present the new estate documents. Robert Morin removed Mark Morin and Lisa Camenzind as trustees and named Robert Morin and Paul Morin as trustees. The document continued to provide that Robert Morin's property would be equally divided between his four children. However, the second amended trust now contained a new "equalization" provision stating that it was Robert Morin's intention "to equalize my children's shares of my and my spouse's estates during life and at death." The amended 2019 will removed Lisa Camenzind as Robert Morin's personal representative and named Paul Morin as the personal representative instead. Robert Morin also signed a new power of attorney removing Lisa Camenzind and Mark Morin as his attorneys-in-fact and naming Paul Morin to that role. Paul Morin's siblings were not aware of this meeting before it occurred.

Sheryl Morrison made a video recording of this meeting. The district court reviewed the video and found that Robert Morin repeated himself and misunderstood the nature of his assets. A medical expert, Dr. William Orr, also reviewed the video for trial. Dr. Orr testified that after reviewing all the information, including the videotape, it was his "impression that Mr. Morin was severely impaired during that time." Additionally, it was unclear whether Robert Morin "really understood the nature and extent of . . . his assets."

In December 2019, Paul Morin informed Sheryl Morrison that Robert Morin wanted to remove Mark Morin and Lisa Camenzind from his trust that week. She responded that she would have to talk to Robert Morin "at some length" about this decision. Paul Morin replied, "I don't think you need to talk to him at length about his decision to remove Lisa and Mark," and told her to simply "verify that [this] is his decision and do the paperwork." Sheryl Morrison then helped Robert Morin to amend his IRA to remove Mark Morin and Lisa Camenzind as beneficiaries. He also removed Mark Morin and Lisa Camenzind from his healthcare directive. This meeting was also videotaped and showed that Robert Morin could not independently remember the names of the documents, could not recall which accounts were affected or how much money was in those accounts, and could not say what year it was, without help from Sheryl Morrison. Dr. Orr testified at trial that he reviewed the videotape and that "without the presence of that heavy prompting . . . , [Robert Morin] would not have understood the nature and extent of that account." Dr. Orr also believed that Robert Morin's decision to remove Mark Morin and Lisa Camenzind appeared "muddled and incoherent." Dr. Orr had "strong suspicions that [Robert Morin] was very impaired" at this time.

Third Amendment

In January 2020, Paul Morin sent a message to Sheryl Morrison stating, "I had the financial rep remove [Mark Morin and Lisa Camenzind] from the beneficiaries list" for Robert Morin's IRA. Sheryl Morrison replied that Robert Morin had not yet removed Mark Morin or Lisa Camenzind as beneficiaries of the trust. Paul Morin informed her that Robert Morin "want[ed] their names to be taken off the Trust completely." The following

day, Robert Morin signed a third trust amendment completely excluding Mark Morin and Lisa Camenzind from his trust. While Ann Morin-Jansen remained a beneficiary of this trust, the district court received evidence that the "only trust asset" was the IRA account.

Sheryl Morrison again videotaped Robert Morin signing this third amendment. Dr. Orr reviewed the tape and stated, "I believe within reasonable medical certainty that [Robert Morin] did not possess testamentary capacity on that day." Dr. Orr further testified that, "[t]he video was impressive at showing that he really did not understand the nature and state of his assets." Robert Morin responded primarily to yes-or-no questions and could not identify, in his own words, what documents he was signing. The district court found that Dr. Orr was a "credible, compelling witness," and noted that "[n]o expert witness or other medical testimony was offered to dispute Dr. Orr's conclusion regarding Robert [Morin]'s capacity at any of the relevant times."

About a week after this signing session, a doctor examined Robert Morin and confirmed that he suffered from dementia. Later that month, Robert Morin underwent a vulnerability assessment at his care center where he was found to have the conversational ability of a "kindergartner" and did not know what year it was.

In March 2020, Robert Morin signed a new IRA beneficiary form removing Ann Morin-Jansen as a beneficiary of his IRA. With this change, Robert Morin designated Paul Morin to receive his entire estate and eliminated his other three children. Mark Morin, Ann Morin-Jansen, and Lisa Camenzind were unaware of these changes. Dr. Orr stated that Robert Morin did not have testamentary capacity at this time and was "extremely

susceptible to undue influence." Paul Morin did not present rebuttal expert testimony regarding Dr. Orr's conclusions.

Robert Morin's Death and Court Proceedings

Robert Morin died in October 2020. Respondents Mark Morin, Ann Morin-Jansen, and Lisa Camenzind challenged the validity of the amendments, claiming that Robert Morin lacked testamentary capacity and was subject to undue influence. They sought to: (1) invalidate the changes to Robert Morin's IRA beneficiaries, (2) invalidate the amendments to the 2014 trust, and (3) probate Robert Morin's prior will.[1]

The district court held a court trial over three days in April and May 2022. The "threshold issue" during this trial was which estate plan should govern the disposition of Robert Morin's assets. The district court heard testimony from the four siblings; Robert Morin's former care assistant; Robert and Rosemary Morin's former attorney, Richard Gabriel; attorney Sheryl Morrison; a county adult protection worker; and medical expert, Dr. William Orr.

Following trial, the district court granted relief in respondents' favor. The district court concluded that respondents met their burden of establishing by clear and convincing evidence that the second and third amendments to Robert Morin's estate documents were invalid because he lacked capacity to make those amendments. It further concluded that

[1] These cases were initiated as four separate case filings to (1) challenge the changes to the beneficiary designations on Robert Morin's IRA account (19HA-CV-21-1056), (2) remove Paul Morin as trustee of Rosemary Morin's trust, which was also created in 2014, (19HA-CV-21-1071), (3) probate Robert Morin's will (19HA-PR-21-434), and (4) invalidate the second and third amendments to Robert Morin's trust (19HA-CV-21-2516). These cases were consolidated into a single proceeding in case file number 19HA-CV-21-1071.

respondents established by clear and convincing evidence that Paul Morin unduly influenced his father to amend his estate documents. The district court made multiple credibility determinations in reaching these conclusions, and specifically credited the testimony from the three siblings, Richard Gabriel, Dr. Orr, the adult protection worker, and the caretaker. Based on the evidence presented, the district court concluded that "Paul exercised influence or persuasion to induce Robert to make each of the testamentary changes challenged from 2019 through 2020." The district court concluded that "all of the testamentary changes challenged from 2019 through 2020 were the product of undue influence and should be rendered void." It invalidated the second amendment to the trust, the third amendment to the trust, the October 2019 will amendments, and the IRA beneficiary designation changes in December 2019 and March 2020.

Paul Morin appeals.

DECISION

On appeal from a district court's decision after a trial without a jury, we will only set aside the district court's findings of testamentary capacity if they are clearly erroneous. *In re Est. of Torgersen*, 711 N.W.2d 545, 550 (Minn. App. 2006), *rev. denied* (Minn. June 20, 2006); *see also* Minn. R. Civ. P. 52.01 (addressing clear error in civil proceedings). Minn. Stat. § 524.1-304(a) (2022) (stating that unless inconsistent with a provision of chapter 524 or chapter 525, probate matters "shall be governed insofar as practicable by Rules of Civil Procedure"). "Findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made." *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999) (quotation omitted). When

applying the clear-error standard of review, appellate courts view the evidence in the light most favorable to the findings. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021). We do not reweigh the evidence, make factual findings, or reconcile conflicting evidence. *Id.* at 221-22. "When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id*. at 223 (quotation omitted). Where conflicting evidence of undue influence is presented, we regard the district court's findings as "final on appeal, even though the appellate court, if it had the power to try the questions de novo, might determine otherwise upon reading of the record." *In re Olson's Est.*, 35 N.W.2d 439, 444 (Minn. 1948) (emphasis omitted). A reviewing court also gives due regard to the district court's opportunity to judge the credibility of the witnesses and will not disturb the district court's credibility determinations. Minn. R. Civ. P. 52.01. A district court's conclusions of law are reviewed de novo. *In re Est. of Neuman*, 819 N.W.2d 211, 215 (Minn. App. 2012).

I. The district court did not clearly err in determining that Robert Morin lacked testamentary capacity to amend his estate documents in 2019 and 2020.

A. The record supports the district court's testamentary-capacity findings.

Paul Morin challenges the district court's determination that Robert Morin lacked testamentary capacity. The capacity required to create or amend a trust is the same as that required to make a will. Minn. Stat. § 501C.0601 (2022). Testamentary capacity requires that the testator "understand the nature, situation, and extent of his property and the claims of others on his bounty or his remembrance, and he must be able to hold these things in his

mind long enough to form a rational judgment concerning them." *In re Healy's Est.*, 68 N.W.2d 401, 403 (Minn. 1955). In reviewing testamentary capacity, we consider: (1) whether the property disposition is reasonable, (2) decedent's conduct within a "reasonable time" before and after executing the document, (3) any previous adjudication of mental capacity, and (4) any "expert testimony about the testator's physical and mental condition." *Torgersen*, 711 N.W.2d at 552.

The district court's order reflects consideration of these factors.

First, the district court found that the property distribution was unreasonable. It noted that "after decades of planning on equally providing for all four of his children," Robert Morin amended his estate documents in 2019 and 2020 to disinherit three of his children in favor of Paul Morin.

Second, Robert Morin's conduct within a reasonable time before and after these amendments demonstrates that he lacked capacity. Medical records showed that Robert Morin suffered "increased cognitive impairment" in 2019. He entered hospice care in February 2019 because he suffered from dementia and could not care for himself. He also showed short-term memory problems and executive-functioning problems. Robert Morin's doctor stated that Robert Morin had "moderate to severe cognitive deficit" and was not "capable of managing finances for healthcare decisions." A few months later, when Robert Morin signed a second trust amendment, he had severe dementia and needed daily care for his basic needs, including feeding. Dr. Orr reviewed a videotape from the 2019 signing session and noted that Robert Morin "was severely impaired during that time" and it was unclear whether he "really understood the nature and extent of . . . his assets."

And by the third amendment in 2020, Dr. Orr testified that he "believe[d] within reasonable medical certainty that [Robert Morin] did not possess testamentary capacity on that day." This testimony was unrebutted.

The third factor does not apply because there has not been a previous adjudication of Robert Morin's mental capacity.

Fourth, a district court considers "expert testimony about the testator's physical and mental condition." *Id.* Robert Morin was diagnosed with moderate to severe dementia. In 2019, a doctor indicated that Robert Morin had moderate to severe cognitive deficit and was not capable of managing his finances or health care decisions. In 2020, a few days after he signed the third trust amendment, both a doctor and an employee at his hospice facility confirmed that Robert Morin had dementia. Dr. Orr, who testified at trial and reviewed the videotapes from the signing sessions, stated that Robert Morin was "very impaired" and "incoherent" in 2019 and lacked testamentary capacity by 2020. The district court found that Dr. Orr "was a credible, compelling witness" and noted that his testimony was unrebutted.

The record evidence supports the district court's incapacity determination under the four-part test articulated in *Torgersen*. We conclude that the district court did not clearly err in its factual findings.

B. We do not reweigh the district court's credibility determinations.

Paul Morin argues that the district court abused its discretion by giving more weight to the testimony of the doctor and comparatively less weight to the opinions of Robert Morin's attorneys that he had testamentary capacity in 2019 and 2020. These assertions

implicate credibility determinations. We defer to the district court's opportunity to assess witness credibility. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *see also Alam v. Chowdhury*, 764 N.W.2d 86, 89 (Minn. App. 2009) ("When evidence relevant to a factual issue consists of conflicting testimony, the district court's decision is necessarily based on a determination of witness credibility, which we accord great deference on appeal."); *Vangsness v. Vangsness*, 607 N.W.2d 468, 474 (Minn. App. 2000) (noting "[t]hat the record might support findings other than those made by the trial court does not show that the [trial] court's findings are defective").

Paul Morin contends that three attorneys suggested that Robert Morin had testamentary capacity. First, he claims that Robert Morin's previous attorney, Richard Gabriel, believed Robert Morin was competent in the summer of 2019. But this witness testified at trial that he did not know Robert Morin's doctor had diagnosed him with moderate to severe cognitive deficit, which may have changed his opinion. Second, Paul Morin asserts that Robert Morin's second attorney, Sheryl Morrison, believed Robert Morin had testamentary capacity to execute the changes to his estate plans in 2019 and 2020. The district court stated that her testimony was credible "with respect to her beliefs regarding Robert [Morin]'s capacity," but ultimately found her testimony less persuasive "on balance" because it was "less than fully consistent with the medical evidence, videotapes [of the signing sessions], and other evidence submitted at trial." Lastly, Paul Morin claims that a third attorney impliedly believed that Robert Morin was competent. Because this third attorney did not testify at trial, this argument is not persuasive.

The district court accorded the opinions of these three witnesses less weight than the other evidence presented. Instead, it credited the medical testimony from Dr. Orr that Robert Morin "was severely impaired" in 2019 and did not understand "the nature and extent" of his assets during the second trust amendment. Dr. Orr testified that by the third amendment in 2020, he "believe[d] within reasonable medical certainty that [Robert Morin] did not possess testamentary capacity on that day." The district court found that Dr. Orr was a "credible, compelling witness," and noted that "[n]o expert witness or other medical testimony was offered to dispute Dr. Orr's conclusion regarding Robert [Morin]'s capacity at any of the relevant times." We defer to the district court's assessment of the credibility of these witnesses, and we decline to overturn these credibility determinations. *In re Welfare of R.T.B.*, 492 N.W.2d 1, 4 (Minn. App. 1992).

We are satisfied that the record supports the district court's findings, and we decline to reweigh the district court's credibility determinations. Accordingly, we conclude that the district court did not clearly err by determining that Robert Morin lacked testamentary capacity to execute amendments to his estate documents in 2019 and 2020.

II. The district court did not clearly err in determining that Robert Morin was subject to undue influence.

Paul Morin argues that the district court clearly erred by determining that Robert Morin's amendments to the estate documents were procured through Paul Morin's undue influence. A party who contests a will as the product of undue influence has the burden to prove this claim by clear and convincing evidence. Minn. Stat. § 524.3-.407 (2022); *In re Est. of Reay*, 81 N.W.2d 277, 280 (Minn. 1957). "Clear and convincing" evidence means

that "the truth of the facts asserted is highly probable." *In re Est. of Rechtzigel*, 385 N.W.2d 827, 832 (Minn. App. 1986) (quotation omitted). A person is competent to enter a contract, such as an estate document, when, at the time of the contract's execution, the party was able to understand the "nature and effect" of what they were doing. *Macklett v. Temple*, 1 N.W.2d 415, 417 (Minn. 1941). "In the absence of fraud or undue influence, mere weakness of intellect, resulting from old age or sickness, is not a ground for setting aside an executed instrument." *Id.* Undue influence is influence "of such a degree exerted upon the testator by another that it destroys or overcomes the testator's free agency and substitutes the will of the person exercising the influence for that of the testator." *In re Wilson's Est.*, 27 N.W.2d 429, 432 (Minn. 1947). A will contestant must show that another person exercised influence over the testator when the will was executed "to the degree that the will reflects the other person's intent instead of the testator's intent." *Torgersen*, 711 N.W.2d at 550. Whether undue influence exists is a question of fact, *Reay*, 81 N.W.2d at 280, which will not be set aside unless clearly erroneous, Minn. R. Civ. P. 52.01.

Evidence of undue influence may be demonstrated by either direct or circumstantial evidence. "Direct evidence of undue influence is not required and is usually unobtainable because the influence is rarely exercised openly in the presence of others. Therefore, the circumstantial evidence must be sufficient to indicate undue influence." *In re Est. of Anderson*, 379 N.W.2d 197, 200 (Minn. App. 1985) (citation omitted), *rev. denied* (Minn. Feb. 19, 1986). When evaluating the evidence to determine undue influence, a district court considers several factors, known as *Wilson* factors: (1) the influencing party's opportunity to exert influence over the testator, (2) the influencing party's active

participation in the will preparation, (3) a confidential relationship between the influencing party and the testator, (4) disinheritance of parties who "probably would have been remembered," (5) singularity of the provisions of the will, and (6) the exercise of influence or persuasion to induce the testator to make the will. *Wilson*, 27 N.W.2d at 432. A district court determines the existence of undue influence by considering "all the surrounding circumstances." *Id.*

Because all six factors are supported by the evidence, we conclude that the district court did not clearly err in determining that Robert Morin was unduly influenced. We address each factor in turn.

A. Opportunity to Exert Influence Over the Testator

The district court found that Paul Morin had the opportunity to exercise undue influence over Robert Morin. The record supports this finding. Robert Morin's long-time attorney drafted his 2014 trust and his first trust amendment. The first trust amendment was consistent with Robert Morin's desire to divide his assets equally among his children. In the summer of 2019, Paul Morin accused this attorney of malpractice, threatened him, and hired a second attorney to help his father draft new estate documents. Paul Morin communicated each "material change" to the second attorney on Robert Morin's behalf. Often, the other three siblings did not learn of the changes until after the fact. Paul Morin also isolated his father from other people. He told Mark Morin that he could only discuss certain topics with their father and threatened to "call the police for help" if Mark Morin broached other subjects. He told his siblings that they could not go to their father's funeral.

Paul Morin also threatened Robert Morin's caretaker and refused to let her speak with Robert Morin.

B. Active Participation in the Preparation of the Estate Documents

Regarding the second factor, Paul Morin actively participated in the preparation of Robert Morin's estate documents. Based on the evidence produced, the district court was persuaded "that every material change made to Robert [Morin]'s estate plan during late 2019 and early 2020 was initiated by Paul [Morin]." Paul Morin hired a new attorney and worked closely with her to suggest amendments to Robert Morin's estate documents. He also provided his input on specific provisions. The amended documents "ultimately ended up with Paul [Morin]'s desired provisions," including the "equalization" provision to account for gifts given to the children during Robert Morin's life. During the second amendment, Paul Morin sent an email to Sheryl Morrison indicting that Robert Morin wanted to remove Mark Morin and Lisa Camenzind from his trust that week. When Sheryl Morrison stated that she was going to talk to Robert Morin "at some length" about these changes, Paul Morin discouraged her from doing so. In 2020, during the process of amending the trust for a third time, Paul Morin sent an email to Sheryl Morrison stating that he had Mark Morin and Lisa Camenzind removed from the beneficiary list for Robert Morin's IRA. Robert Morin also excluded Mark Morin and Lisa Camenzind from the trust during this third amendment. This evidence supports a finding that Paul Morin was actively involved in selecting his father's attorney, communicating Robert Morin's wishes to her directly, and providing his input into the changes.

C. Confidential Relationship

The district court found that Paul Morin was in a confidential relationship with Robert Morin, also weighing in favor of an undue-influence finding. Paul Morin was Robert Morin's son, which, the district court noted, is typically "one where reliance and trust is expected." Due to his moderate-to-severe dementia, Robert Morin was unable to take care of his daily basic needs or financial affairs. As a result, he often relied on Paul Morin to assist him. This included hiring new legal counsel, instructing her on changes to the documents, and working closely with her to draft trust amendments on Robert Morin's behalf in 2019 and 2020.

D. Disinheritance of Siblings

As to the fourth factor, the district court found that, "after decades of planning on equally providing for all four of his children, Robert was caused by Paul to disinherit both Mark and Lisa from Robert's trust. Paul also caused Robert to remove Mark, Lisa, and Ann from Robert's IRA beneficiary designation." Clear and convincing evidence in the record supports this finding. Robert Morin originally structured his trust to allocate his assets to his children in equal shares. Although he amended his trust in 2018, this amended document retained the provision that all four children would be equal beneficiaries of the trust. By the time Robert Morin amended his will in 2019 and 2020, however, he had completely excluded Mark Morin and Lisa Camenzind from his trust and removed all of his children, except Paul Morin, as a beneficiary of his IRA. "An entire change from former testamentary intentions is a strong circumstance to support a charge of undue influence." *Olson*, 35 N.W.2d at 446. "This is especially true where the effect of the

change is to give the beneficiary charged with exercising undue influence a 'larger' share of testator's estate than she would have received otherwise." *Id.* (quotation omitted). Here, the record shows that Robert Morin intended to leave his estate to his children in equal shares but disinherited his other three children in 2019 and 2020 in favor of Paul Morin. The district court did not clearly err by finding that this factor weighed in favor of an undue-influence determination.

E. Singularity of the Provisions of the Estate Documents

Robert Morin's estate documents were also singular in nature because Paul Morin was the sole beneficiary of the estate. The district court noted that these changes "singularly benefited Paul [Morin] only." Robert Morin removed Mark Morin and Lisa Camenzind as IRA beneficiaries and as healthcare agents. He later removed Mark Morin and Lisa Camenzind as beneficiaries of his trust. In 2020, Robert Morin named Paul Morin as the sole beneficiary of his IRA. On this record, it was not clear error for the district court to find that the 2019 and 2020 estate amendments were "singular" in favor of Paul Morin.

F. Exercise of Influence or Persuasion to Induce the Testator to Act

As to the last factor, the district court found that Paul Morin exercised influence or persuasion over Robert Morin to make the changes to his estate documents. Undue influence "must operate at the very time the will is made." *In re Est. of Overton*, 417 N.W.2d 653, 658 (Minn. App. 1988) (quotation omitted). A court may consider the person's age, intelligence, experience, physical and mental health, and strength of character. *Agner v. Bourn*, 161 N.W.2d 813, 818 (Minn. 1968). Here, Robert Morin had

diminished capacity and suffered from dementia. Medical records confirm that he suffered from dementia during 2019 and 2020, when the second and third amendments were made. Further, the district court reviewed videotape taken from the signing sessions that show "heavy prompting" from the attorney. A doctor who reviewed these videotapes noted that Robert Morin was "very impaired," "muddled," and "incoherent" in 2019, and, by 2020, "did not possess testamentary capacity." The 2019 and 2020 amendments were drafted by an attorney who Paul Morin hired, and who communicated with Paul Morin about the changes. The other three siblings were unaware of these changes, due in part to Paul Morin's attempts to keep his siblings away from their father. Paul Morin also threatened Robert Morin's caretaker, which eventually led her to stop working for Robert Morin. The caretaker testified that Paul Morin was "coaching" Robert Morin to turn against his other three children. The district court found her testimony especially credible. The district court further found that Paul Morin "fueled" his father's "fears about losing his mental capacity." The district court concluded that in light of all the evidence presented, Paul Morin "exercised influence or persuasion to induce Robert to make each of the testamentary changes challenged from 2019 through 2020." Clear and convincing evidence in the record supports these findings.

Under the six-part *Wilson* test, a district court determines the existence of undue influence by considering "all the surrounding circumstances." *Wilson*, 27 N.W.2d at 432. Because clear and convincing evidence supports the district court's factual findings, we conclude that the district court did not clearly err in determining that the undue-influence

factors were satisfied and showed that Robert Morin's 2019 and 2020 amendments to his estate documents were the product of undue influence by Paul Morin.

III. Paul Morin is not entitled to relief on his remaining arguments.

Paul Morin argues that he is entitled to relief because: (1) the district court was biased against him, (2) this court should consider his arguments related to the transfers from Robert Morin's trust to Rosemary Morin's trust, and (3) issues related to the no-contest clause in the second and third amended trust agreements are ripe for consideration. We disagree.

First, Paul Morin failed to raise his bias claims in district court, and we therefore deem them forfeited. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (declining to review an issue that was not properly preserved in district court). Moreover, although the district court's findings and conclusions are adverse to Paul Morin, unfavorable findings and rulings are not a basis for imputing judicial bias. *Olson v. Olson*, 392 N.W.2d 338, 341 (Minn. App. 1986) (noting that adverse rulings alone are insufficient to impute bias to a judge).

Second, issues related to the financial transfers from Robert Morin to Rosemary Morin's trust have not been adjudicated in district court. Because the district court has not ruled on these issues, questions regarding the financial transfers are not yet before this court. And our review is limited to questions previously presented to, and considered by, the district court. *Thiele*, 425 N.W.2d at 582. As such, we decline to review the financial transfers from Robert Morin to Rosemary Morin's trust.

Third and finally, we decline to consider the no-contest clauses in Robert Morin's second and third amended trust agreements. The district court invalidated the second and third trust agreements based on Robert Morin's lack of testamentary capacity, and we now affirm that decision. As such, the no-contest clauses outlined in those documents are no longer in effect and this issue is moot. *See O'Brien & Wolf, LLP v. S. Cent. Minn. Elec. Workers' Fam. Health Plan*, 923 N.W.2d 310, 316 (Minn. App. 2018) (noting that "[i]f we cannot grant relief on an issue purportedly raised on appeal, the issue is moot"), *rev. denied* (Minn. Mar. 27, 2019).

Affirmed.