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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

Conservatorship of the Person of A.D.

PUBLIC GUARDIAN OF SONOMA COUNTY,

Petitioner and Respondent,

v.

A.D.,

Objector and Appellant.

A143972

(Sonoma County

Super. Ct. No. 86081)

A.D., the conservatee below, seeks reversal of the Sonoma County Superior Court’s order reappointing for one year the Sonoma County Public Conservator (Public Conservator) as conservator of his person with certain authority over his medical care and treatment and imposing certain special disabilities. The court found pursuant to section 5350, of the Lanterman-Petris-Short (LPS) Act (Welf. & Inst. Code, § 5000 et seq.),¹ that A.D. was beyond a reasonable doubt “gravely disabled” because of a mental disorder so that he could not provide for his basic needs of food, clothing or shelter, and imposed the special disabilities pursuant to section 5357. A.D. argues the court’s finding that he was gravely disabled and its imposition of certain special disabilities were not supported by substantial evidence. We affirm the court’s order, except that we vacate its order regarding the special disabilities and remand this case to the trial court for further

¹ Further statutory citations are to the Welfare and Institutions Code, unless otherwise indicated.

proceedings on that issue because the basis for the court's imposition of these special disabilities is unclear from the record before us.

BACKGROUND

I.

The Court's Appointment of a Conservator for A.D. in 2013

In October 2013, the Public Conservator filed a petition for the appointment of a temporary conservator over the person of A.D. On December 5, 2013, the court conducted a hearing regarding the petition.

Counsel for the Public Conservator called as a witness Dr. Gary Bravo, a psychiatrist with Sonoma County's mental health department. Dr. Bravo testified that he had treated A.D. at the inpatient psychiatric unit at Norton Center, evaluated him at the county's main adult detention facility that previous summer and evaluated him for a previous conservatorship hearing. Dr. Bravo opined that A.D. suffered from a "pseudo-effective disorder, bipolar type." A.D. had twice before been subject to a conservatorship and, when he eventually accepted treatment, he had done very well. However, more recently, after about a year of probably not taking or tweaking his medication, he "got very bad." He was hospitalized the previous spring, arrested for assaulting a roommate later in the year and found incompetent to stand trial in June 2013. When he did not take his medication, A.D.'s symptoms were "[p]ressured speech, hyperkinetic behavior, grandiose and paranoid delusions [and] auditory hallucinations," as well as "[d]isorganized behavior, and sometimes aggressiveness."

At this point in Dr. Bravo's testimony, A.D. stated, "I am a witness. I have a license to practice violence. I have a license to kill." Dr. Bravo testified that A.D.'s statements were symptoms of mental illness.

Asked how A.D.'s mental disorder affected his ability to provide for his basic needs of food, clothing and shelter, Dr. Bravo said that A.D. "clearly . . . would have a hard time negotiating contracts. Managing his budget. Following the rules of civil behavior that would keep him from getting evicted from placements." Dr. Bravo also

thought that A.D. would stop taking medication if he were not in a conservatorship. In Dr. Bravo's opinion, A.D. was "gravely disabled."

A.D. made other statements during the hearing and also testified on his own behalf. His statements included that he was "a famous supermodel," "[had] an international restraining order put against all people because [he had] so many obsessed fans," had "diplomatic immunity," had "a license to diagnosis [him]self," had assaulted his roommate in self-defense and was a "scholar of law, bonded" with a Ph.D. he obtained when he was 19. A.D. also said that "people are starving because I have been kept in captivity," and that he was "Cher," had attended "Harvard and all of the military academies," had "immortal including immortal lifeguard," had "post-mortem shock from dying in the Middle East from the soldiers," did not want to take his medication because it made him "sick" and was the "author of Universal Peace." He said that Dr. Bravo practiced "as a body snatcher and poison," that if the judge said he was guilty, "the judge should be shot for disobeying my rights," that he, A.D., was "a Supreme Court Justice," his parents have ghosts, he was "an international victim of damnation when [he] was a religion," he built the courtroom with "wish power in high school" and he passed the "tiny bar" when he was three years old, at which time everyone thought he was a lawyer.

After the hearing, the court issued an order that A.D. was a gravely disabled person and appointed the Public Conservator as conservator for him, with the authority to place him in any facility described in section 5358 et seq. and make decisions about his care and treatment. The court also denied A.D. the privilege of possessing a motor vehicle license as well as the rights to enter into contracts, possess a firearm or other deadly weapon and refuse or consent to medical treatment relating to grave disability. The court further ordered that the least restrictive placement for A.D. was in an IMD locked facility.

II.

The Court's Reappointment of A.D.'s Conservator in 2014

In November 2014, the Public Conservator petitioned for reappointment as conservator of A.D. with the same authority and for imposition of the same special

disabilities. It attached to the petition two medical opinions by physicians asserting that A.D. was gravely disabled as a result of mental disorder. One of the physicians, Dr. Artoteles Tandinco, also filed a declaration stating that A.D. was “gravely disabled” within the meaning of section 5008, subdivision (h) in that he suffered from a type of schizophrenia.² Dr. Tandinco opined that, as a result of his mental disorder, A.D. could not provide for proper food for himself because he continued to be confused and had no plan for how and where to get his meals; could not provide for proper clothing for himself because, among other things, he needed prompting to change and clean his clothes; and could not provide for proper shelter for himself because he was unable to utilize community resources, given his paranoia and disorganization. Furthermore, A.D. was not capable of accepting treatment voluntarily.

At the hearing on the reappointment petition, held in December 2014, A.D.’s counsel began by stating, “[A.D.] did ask me to establish something at the start of this hearing. [¶] He believes he has diplomatic immunity and I informed [counsel for the Public Conservator] of that and he wanted that to be put on the record.” A.D. said, “Yes. I have diplomatic immunity. It is illegal to put me into captivity.” After the court indicated it would take this under consideration, counsel for the Public Conservator again called Dr. Bravo as a witness.

Dr. Bravo testified that he had again evaluated A.D., this time by reviewing A.D.’s records and a report from A.D.’s behavioral health social worker, considering his “extensive” past interactions with A.D., and meeting A.D. at the Norton Center for about 10 minutes. Dr. Bravo opined that A.D. remained “gravely disabled” as a result of a mental disorder, which was “schizophrenia paranoid type.” Asked what about the disorder made it difficult for A.D. “to provide for himself,” Dr. Bravo stated that A.D. “has consistently denied that he has an illness or a need for psychiatric medication.” When he was “not stable,” he had “delusions” and “irrational, sometimes aggressive behaviors” that “preclude[ed] him from providing for his—negotiating safely in the

² Dr. Tandinco’s handwritten diagnosis is not entirely legible. The word “schizophrenia” can plainly be read, but the phrase that follows it is illegible.

world.” Dr. Bravo said, “[A.D.] talks very fast. He’s very hyperkinetic, his moods go up and down including extreme anger, his speech is pretty much nonsensical with shifting delusions, rapid gently [*sic*] from topic to topic, delusions of grandiose and paranoid and bizarre behavior There’s delusions about—paranoid delusions about his parents. So a lot.” A.D. had “been making some progress,” but “still [had] a way to go.” Notes from recent weeks indicated there were “no real behavioral problems, no aggressive behavior.”

Dr. Bravo said A.D. was on antipsychotic medication, but the doctor did not believe A.D. would stay on the medication if he were off conservatorship because A.D. had told him “he did not need the medication and wouldn’t take it.” However, there was no indication that A.D. was not medication compliant at the time of the hearing. A.D. had told Dr. Bravo that he had a “neurological illness,” but could not articulate what that meant, and said he was in psychiatric hospitals and on conservatorships in the past because his mother was diagnosed as a hypochondriac. A.D. had been civil and “very friendly” with Dr. Bravo, and did not display any anger.

Dr. Bravo testified that prior to the conservatorship, A.D. had twice been on a conservatorship and had been in a locked setting, independent living and intensive outpatient care. Dr. Bravo understood A.D. had been stable “for a bit” in the intensive outpatient care, but a problem had arisen when he stopping taking his medications. A.D. had become “very insistent that he was not mentally ill and would not take his medications.” Eventually, he had been arrested.

Dr. Bravo further testified that A.D. told him that if he got off conservatorship, he would get a job, stay at “Hosanna House,” which he described as a place where he could stay for free at the YMCA, or at a homeless shelter, and said he had a house in San Francisco. Dr. Bravo did not think A.D. could successfully stay at a homeless shelter because “it would be very clear that he couldn’t negotiate, follow the rules, . . . really get along on a realistic basis with others, he would be identified as mentally ill. Probably shortly he would be 5150’d or brought to Norton as someone who obviously has a psychiatric illness. . . . [H]e . . . could be arrested again or at worst get in some kind of

danger again because of his . . . delusions, you know, put himself or others in danger,” as when unstable he had a “quick” temper that was “quite severe.”

A.D. testified at the hearing. Asked about his educational background, he said he grew up a “constitutional law prodigy,” “went to Harvard for two weeks to start as a connection to [his] other schools,” “went to Berkeley Law for a short course, Ph.D. in the federal law,” and “was bonded to with one hundred percent school at that time.” He also had a license in urology with a license to diagnose himself. His diplomatic immunity was granted to him at birth, where, he said, “I was constitutional law I believe.” Most of his jobs were from the military, and he had worked as a county lifeguard, in restaurants and as a swim instructor.

Asked about his plan for housing, A.D. said he could live at the “Hosanna House,” which was next door to the YMCA, at the YMCA, or, as a last resort, at a homeless shelter for a few days. He had money in Wells Fargo that he would use to find an apartment. He had previously stayed at a homeless shelter in New York City “when [he] was fighting at the 911 against the Talibans,” and had been able to get along with people “perfectly.”

Asked about his plan to provide for his food, A.D. said he would take money out of the bank and either eat in restaurants or cook. Asked about clothing, he said he would purchase it with money from the bank also. He also indicated he would take prescribed medication if off conservatorship; while it was his right to refuse medical treatment, if it was his “freedom or the pill,” he would “accept to take the pill.”

A.D. was then asked if he understood what it meant to be “gravely disabled.” He said that he did and that “it’s 1 push up and counting to 10.” He asked if he could “do the gravely disabled test now” and, when the court indicated he could do so, counted to 10 and did two push ups.

At the end of the hearing, the court announced that it was reestablishing the conservatorship and reappointing the Public Conservator as conservator of A.D., and that the least restrictive placement for A.D. was in an IMD locked facility. In a subsequent written order, the court so ordered. It also ordered that the conservator had the right to

consent to, authorize and require care and treatment for A.D. related to remedying or preventing the recurrence of A.D. being gravely disabled, and imposed certain special disabilities, they being that A.D. was denied the privilege of possessing a license to operate a motor vehicle and the rights to enter into contracts and possess a firearm or other deadly weapon.

A.D. subsequently filed a timely notice of appeal.

DISCUSSION

I.

The Court's "Gravely Disabled" Finding

A.D. argues that substantial evidence is lacking to support the court's finding that, as a result of a mental disorder, he was "gravely disabled" because he was unable to provide for his basic personal needs of food clothing or shelter. We disagree.

The definition of " 'gravely disabled' " includes "[a] condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic needs of for food, clothing, or shelter." (§ 5008, subd. (h)(1)(A).) An LPS conservator of the person may be appointed for a person who is gravely disabled upon a fact finder's determination of this grave disability beyond a reasonable doubt. (§ 5350; *Conservatorship of Roulet* (1979) 23 Cal.3d 219.)

A person engaging in strange behavior is not necessarily "gravely disabled." "Bizarre or eccentric behavior, even if it interferes with a person's normal intercourse with society, does not rise to a level of warranting conservatorship except where such behavior renders the individual helpless to fend for herself or destroys her ability to meet those basic needs for survival." (*Conservatorship of Smith* (1986) 187 Cal.App.3d 903, 909 (*Smith*)). "[I]n order to establish that a person is gravely disabled, the evidence must support an objective finding that the person, due to mental disorder, is incapacitated or rendered unable to carry out the transactions necessary for survival or otherwise provide for his or her basic needs of food, clothing, or shelter." (*Conservatorship of Carol K.* (2010) 188 Cal.App.4th 123, 134 (*Carol K.*); *Smith, supra*, at p. 908.)

An LPS conservatorship automatically terminates after one year. (§ 5361.) If the conservator determines that conservatorship is still required, the conservator may petition the superior court for reappointment for a succeeding one-year period. (*Ibid.*) In the case of a conservatee with a mental disorder, “[t]he petition must include the opinion of two physicians or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders that the conservatee is still gravely disabled as a result of mental disorder” (*Ibid.*) The conservator must establish anew that the conservatee is “gravely disabled” beyond a reasonable doubt. (See *Baber v. Superior Court* (1981) 113 Cal.App.3d 955, 959 [“[i]f the conservator did petition for reappointment, the [conservatee] was then entitled to the same procedural safeguards that he had during the original conservatorship proceeding,” including “the public guardian having the burden of proof beyond a reasonable doubt”].)

“On appeal ‘the court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.’ [Citations.] Substantial evidence includes circumstantial evidence and the reasonable inferences flowing therefrom.” (*Conservatorship of Walker* (1989) 206 Cal.App.3d 1572, 1577 (*Walker*).) The testimony of a single witness may be sufficient to justify a finding of grave disability. (*Carol K., supra*, 188 Cal.App.4th at p. 134; *Conservatorship of Johnson* (1991) 235 Cal.App.3d 693, 697.)

We conclude substantial evidence exists to support the trial court’s reappointment of the conservator based on its finding that A.D. was gravely disabled beyond a reasonable doubt. At the hearing on the reappointment petition, Dr. Bravo opined, based on his extensive experience with A.D., meeting with him and review of his records, that A.D. was gravely disabled as a result of schizophrenia of a paranoid type. This disorder caused A.D., when he was not stable, to have mood swings, including extreme anger, be “hyperkinetic,” engage in speech that was “pretty much nonsensical,” have “shifting

delusions,” including of grandiose, paranoid and bizarre behavior, and move rapidly from topic to topic. As a result of his delusions, and irrational and sometimes aggressive behaviors, he was “preclude[ed] . . . from . . . negotiating safely in the world.” Thus, Dr. Bravo specifically did not think A.D. would be able to successfully stay in a homeless shelter. He could not negotiate or follow rules, could not get along “on a realistic basis” with others and could put himself or others in danger because of his delusions.

Many of Dr. Bravo’s opinions were confirmed by A.D.’s own statements at the reappointment petition hearing. A.D. expressed himself in ways that indicated he suffered from confusion and delusions, even though at the time of the hearing he appeared to be medication compliant. For example, he insisted that he had diplomatic immunity granted to him at birth when he was “constitutional law.” He had a Ph.D. in “federal law,” had fought the Taliban in New York City and was a licensed urologist with the authority to diagnose himself. He believed the test for determining whether or not he was gravely disabled was to see if he could count to ten and perform a push up, and insisted on showing the court that he could do both.

There was also evidence that A.D. would become more confused and delusional if he were off conservatorship because he told Dr. Bravo he did not need his stabilizing medication and would not take it. The risk that he would stop taking his medication was further indicated by evidence that he did not understand he suffered from a mental disorder. Specifically, he told Dr. Bravo he suffered from a neurological illness and was in psychiatric hospitals because his mother was a hypochondriac.

This evidence supports the conclusion that, as a result of a mental disorder, A.D. could not, as Dr. Bravo testified, “negotiate safely in the world.” This is sufficient substantial evidence to meet the burden of proof here, as it is equivalent to the conclusion that, as a result of a mental disorder, he was “rendered unable to carry out the transactions necessary for survival or otherwise provide for his or her basic needs of food, clothing, or shelter.” (*Carol K.*, *supra*, 188 Cal.App.4th at p. 134; *Smith*, *supra*, 187 Cal.App.3d at p. 908.)

A.D. makes a number of arguments why this evidence is insufficient, none of which are persuasive. First, he contends that Dr. Bravo's diagnosis of his mental disorder was conclusory and without facts or reasoning, and points out that the doctor was not asked specifically about the *legal* definition of the term "gravely disabled"; therefore Dr. Bravo's testimony did not constitute substantial evidence of a mental disorder based on *People v. Bassett* (1968) 69 Cal.2d 122, 141(*Basset*). We disagree.

As the Supreme Court itself later explained in distinguishing another case from the facts in *Bassett*, the *Bassett* court "addressed . . . whether the record contained sufficient evidence of defendant's ability to premeditate and deliberate to support a first degree murder conviction. [The court] reversed the defendant's conviction and sentence, finding the prosecution had not sustained its burden of proof. As to two psychiatrists testifying for the prosecution, who rendered their opinions without having examined the defendant, [the court] held their testimony was insubstantial because they adduced no reasoning in support of their conclusions and never attempted to refute the mass of defense evidence to the contrary. ([*Bassett, supra*, 69 Cal. 2d] at pp. 144-145.) The opinion of the third psychiatrist, who had personally examined the defendant, did not constitute substantial evidence because his testimony revealed he labored under a misunderstanding of the term 'premeditation.' (*Id.* at pp. 147-148.) Consequently, the judgment in *Bassett* could not stand." (*People v. Stanley* (1995) 10 Cal.4th 764, 811 (*Stanley*).) By contrast, in *Stanley*, the court found that the evidence of the defendant's competency was sufficiently established by the testimony of two psychiatrists who based their conclusion on interviews with defendant, even though they did not review the defendant's extensive records, as well as testimony by two jailers regarding the defendant's conduct in jail. (*Id.* at pp. 811-812.)

The evidence before the court in the current case was more like that in *Stanley* than in *Bassett*. As we have discussed, Dr. Bravo's opinion that A.D. suffered from schizophrenia of a paranoid type was based on his extensive experience with A.D., meeting with him and reviewing his records. A.D. ignores that, while Dr. Bravo did not further define his diagnosis or what else he did to reach it, he discussed at some length

that this disorder caused A.D. to engage in behaviors, such as shifting delusions, grandiose, paranoid, bizarre, irrational and sometimes aggressive behaviors and nonsensical communications, which, Bravo opined, precluded A.D. from “negotiating safely in the world.” Further, similar to the observations of the jailers who testified in *Stanley*, the court could readily observe that A.D. suffered from confusion and delusions during the hearing. Interpreting the evidence as we must in the light most favorable to the court’s order below, we conclude this was substantial evidence of a mental disorder. Also, given that Dr. Bravo concluded that A.D. could not negotiate safely in the world and specifically opined that A.D. would be unable to live in a homeless shelter, it is not particularly relevant that Dr. Bravo was not asked specifically about the legal definition of “gravely disabled.”

Next, A.D. argues that there was no evidence that he could not engage in “basic transactions of life” required to obtain proper food, clothing and shelter. Here, he does nothing more than quibble with the depth of Dr. Bravo’s testimony, such as regarding whether A.D. could live in a homeless shelter, while ignoring the doctor’s conclusion that he could not safely negotiate in the world. He also again ignores his statements in the courtroom, such as his assertions that he had diplomatic immunity, was “constitutional law” at birth, could as a urologist diagnose himself, lived in a homeless shelter in New York City while fighting the Taliban, or his nonsensical definition of the test for “grave disability” and his insistence on performing his “test” in the courtroom. This, along with Dr. Bravo’s elaboration on his other behaviors and opinions, was substantial evidence that A.D. would be unable to engage in basic transactions necessary for his survival, not only such as finding shelter for himself, but also such as eating in a restaurant, as A.D. said he intended to do at least part of the time.

Next, A.D. correctly points out that, even if A.D. did not want to take his medication or acknowledge his illness, “[t]he LPS Act conspicuously does not state that persons are gravely disabled solely because they refuse treatment for a mental illness.” (*Conservatorship of Walker* (1987) 196 Cal.App.3d 1082, 1093.) However, the court did not find him gravely disabled based on such a refusal. Dr. Bravo’s reference to A.D.’s

refusal to take his medication, while made in response to questions about A.D.'s disorder, was a basis for Dr. Bravo's explanation that A.D. engaged in delusional and other behaviors when he became unstable. It was these behaviors that were at the core of Dr. Bravo's testimony that A.D. was "gravely disabled," and the court was entitled to rely on them. (See *Walker, supra*, 206 Cal.App.3d at p. 1577 [testimony that a conservatee would be unable to care for himself without medication he did not believe he needed was substantial evidence for an order reappointing a conservator]; see also *Conservatorship of Guerrero* (1999) 69 Cal.App.4th 442, 445-447 [jury may be instructed to consider evidence that a conservatee will not take medication as required and that a mental disorder makes him unable to provide for his basic needs].) Therefore, A.D.'s argument is of no avail to him.

Finally, A.D. contends that the facts of this case are similar to those in *Smith*, in which an appellate court determined that a prospective conservatee's religious delusions and homelessness were insufficient evidence that she had a grave disability pursuant to the LPS Act. Again, we disagree.

In *Smith*, the appellant, Smith, suffered from a mental disorder that commanded her to maintain a vigil outside a particular church. (*Smith, supra*, 187 Cal.App. 3d at p. 910.) This "fixation" resulted in her "sleeping on the sidewalk in front of the church at night, and on one past occasion this may have caused her to become sick. She has no income, no savings and no permanent home." (*Ibid.*) Nonetheless, the appellate court stated, "[b]izarre or eccentric behavior, even if it interferes with a person's normal intercourse with society, does not rise to a level warranting conservatorship except where such behavior renders the individual helpless to fend for herself or destroys her ability to meet those basic needs for survival. Only then does the interest of the state override her individual liberty interests." (*Id.* at p. 909.) The appellate court reversed an order appointing a conservator issued in the court below, concluding that there was insufficient evidence to prove Smith was "gravely disabled" beyond a reasonable doubt because, "[d]espite her admittedly bizarre behavior, *she [was] not, nor [had] she been,*

incapacitated or unable to carry out the transactions necessary to her survival.” (Id. at p. 910, italics added.)

Smith was not diagnosed with a serious mental disorder, nor did she suffer from any delusions that prevented her recognizing reality or negotiating successfully with the community for shelter, food, or clothing. Here, on the other hand, Dr. Bravo’s undisputed expert testimony established that A.D. could not negotiate safely in the world based on his mental disorder, and provided concrete examples of behaviors that would make him unable to do so, some of which A.D. exhibited in the courtroom. This effectively distinguishes the present circumstances from those discussed in *Smith*.

In short, substantial evidence supports the court’s order pursuant to section 5350 that an LPS conservatee be reappointed because A.D., as a result of a mental disorder, was gravely disabled beyond a reasonable doubt.

II.

The Court’s Imposition of Certain Special Disabilities

A.D. also contends that the court did not make requisite findings, nor is there evidence to support, its order denying A.D. the privilege of a motor vehicle license and the rights to enter into contracts and possess a firearm or other deadly weapon. We remand for further proceedings regarding these special disabilities because the record is not clear why the court ordered them.

Respondent, the Sonoma County Public Guardian, contends that A.D. has waived his argument that the imposition of the special disabilities is not supported by substantial evidence by failing to address the issue first below. According to respondent, it “must be put on notice at some point in the proceedings that the proposed conservatee is not only contesting whether he is gravely disabled but also whether, if he is found to be gravely disabled, he should also be precluded from driving, entering into contracts, or possessing a firearm.” However, respondent does not support this argument with any legal authority. We do not find waiver in light of the fact that the Public Conservator bore the burden of producing evidence to support the special disabilities sought. (See *Walker, supra*, 206 Cal.App.3d at pp. 1577-1578 [finding appellant did not waive challenge to special

disabilities for failure to produce any evidence below in light of respondent’s evidentiary burden].) We therefore address the merits of A.D.’s challenge.

Section 5357 provides that the court may impose certain special disabilities on a conservatee, including those imposed in the present case. (§ 5357, subds. (d)-(f).) The fact that a conservatee is gravely disabled does not “by itself satisfy the evidentiary requirements for the imposition of special disabilities under section 5357. A conservatee does not forfeit any legal right nor suffer legal disability by reason of the LPS commitment alone.” (*Walker, supra*, 206 Cal.App.3d at p. 1578, fn. omitted.) “The court must separately determine . . . the disabilities imposed on the conservatee [Citations.] The party seeking conservatorship has the burden of producing evidence to support the disabilities sought . . . and the conservatee may produce evidence in rebuttal.’ ” (*Conservatorship of George H.* (2008) 169 Cal.App.4th 157, 165 (*George H.*)). Substantial evidence must support the imposition of any disability. (See *Conservatorship of Amanda B.* (2009) 173 Cal.App.4th 1380, 1382.)

A.D. argues that there was no finding or evidence that he presented a danger to his or others’ safety, a requirement before he can be deprived of the right to possess a firearm pursuant to section 8103, subdivision (e)(1),³ nor any finding or evidence that he lacked the specific mental capacity necessary to form a contract or needed to be protected from entering into one. He relies for his general argument on *Walker*, in which the court, because it found the basis for the trial court’s imposition of special disabilities “unclear” from the record before it, remanded the matter for further proceedings concerning what special disabilities to impose. (*Walker, supra*, 206 Cal.App.3d at pp. 1577-1579.)

³ Section 8103, subdivision (e)(1) states in relevant part: “No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder . . . shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control, any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court that imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others.”

Respondent points out that one appellate court has held that a trial court’s imposition of special disabilities is proper when the court “properly specified each of the . . . disabilities it imposed”; there is “no . . . legal requirement” that the trial court provide “a specific on-the-record statement of the reasons for each order.” (*George H.*, *supra*, 169 Cal.App.4th at p. 165.) “Instead, we follow the usual rules on appeal [citation] and ‘presume in favor of the judgment every finding of fact necessary to support it warranted by the evidence[.]’ ” (*Ibid.*) It urges that we follow this same course here, presume the court made its findings of fact, and find that substantial evidence supports these findings.

Also, in our own research, we have reviewed a case issued by our colleagues in the Division Five of this court. In *K.G. v. Meredith* (2012) 204 Cal.App.4th 164, the court reconciled *George H.* and *Walker* in determining that, while there is no clear statutory requirement that the court make an express finding of decisional incapacity before imposing what in that case was a medical treatment disability, “the record must disclose that the trial court was aware of the finding it was required to make before imposing the disabilities, that it considered the evidence proffered on the issue, and that it in fact made the finding.” (*Id.*, *supra*, at p. 179.)

We agree with A.D. to the extent that he contends that it is unclear from the record why the court imposed the special disabilities. We also see nothing in the record disclosing that the court was aware of the findings it was required to make before imposing them or that it in fact made such findings, and the Public Conservator did not identify any evidence that specifically went to its request for special disabilities. Indeed, at the end of the hearing, the court made no reference to the special disabilities requested in stating its order; they were only included in the court’s later written order and without further explanation.

We agree with the *Walker* court that the “better practice” is for the disclosure below, “by the questions asked or the argument made, the evidence relied upon to support special disabilities under section 5357.” (*Walker*, *supra*, 206 Cal.App.3d at p. 1578.) Accordingly, we vacate the court’s imposition of special disabilities and remand this matter to the trial court for further proceedings regarding the imposition of special

disabilities. We do not address whether the evidence presented at the hearing was sufficient to support the imposition of these special disabilities.

DISPOSITION

The order appealed from is affirmed, except that the court's order imposing special disabilities is vacated and this matter is remanded to the trial court for further proceedings concerning the special disabilities which respondent seeks to impose on A.D.

STEWART, J.

We concur.

KLINE, P.J.

RICHMAN, J.