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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

Conservatorship of the Person and Estate of  
C.G.

SAN MATEO COUNTY PUBLIC  
GUARDIAN,

Petitioner and Respondent,

v.

C.G.,

Objector and Appellant.

A145477

(San Mateo County  
Super. Ct. No. PRO112967)

Appellant C.G. appeals from a May 12, 2015, order appointing respondent Public Guardian of San Mateo County as the conservator of her person and estate under the Lanterman-Petris-Short Act (LPS Act) (Welf. & Inst. Code, § 5000 et. seq.<sup>1</sup>). Appellant challenges the trial court’s finding that, as defined in the LPS Act, she is “gravely disabled,” in that as a result of a mental health disorder, she is unable to provide for her basic personal needs for food, clothing, or shelter. (§ 5008, subd. (h)(1).) We affirm.

**FACTS**

**A. Background**

On March 3, 2015, the Public Guardian of San Mateo County (Public Guardian) filed an ex parte petition to establish a temporary LPS Act conservatorship for appellant,

<sup>1</sup> All further unspecified statutory references are to the Welfare and Institutions Code.

based on an attached verified joint report of Stephen Cummings, M.D. and Demetra Stamm, M.D., in which the doctors were of the opinion, among other things, that appellant was gravely disabled as a result of a mental health disorder, in that she was unable to provide for her basic personal needs for food, clothing, or shelter. The temporary petition also contained a verified declaration from appellant's treating psychiatrist, Zachary Plant, M.D, who also was of the opinion that appellant was in need of a temporary conservator because, due to her mental health disorder, she was unable to provide for her basic personal needs of food, clothing or shelter. On March 3, 2015, the court granted a temporary conservatorship for appellant's person and estate to terminate 30 days from the date of the order or the establishment of a conservatorship.

Several days later, on March 9, 2015, San Mateo County counsel filed a petition for conservatorship seeking the appointment of the Public Guardian as conservator for appellant's person and estate. The petition also sought to impose certain special disabilities on appellant by granting the Public Guardian as conservator the authority to place appellant in an appropriate facility, and the right to require appellant to receive medical or psychiatric treatment related specifically to remedying or preventing the recurrence of her grave disability. Appellant demanded a court trial on the issue of whether she was "gravely disabled . . . ." The temporary conservatorship was continued until the matter was heard by the trial court.

## **B. Trial Proceedings**

A court trial was held on May 12, 2015 during which the court heard testimony from Lyn Mangiameli, Ph.D in clinical psychology with specializations in neuropsychology and applied gerontology; Christina Webb, who prepared the March 17, 2015, conservatorship investigation report; and appellant. The court first heard testimony on the issue of whether appellant was gravely disabled, and then heard testimony on the imposition of special disabilities.

### **A. Grave Disability Phase**

Qualified as an expert in psychology, Dr. Mangiameli testified he first met appellant, now 47 years old, in 2010 during her prior admission at the San Mateo Medical

Center acute psychiatric unit. The doctor had also seen appellant during appellant's more recent admissions at the hospital in 2014 and 2015.

Having been asked to evaluate appellant for the trial, Dr. Mangiameli spent approximately two hours with appellant at her current placement at Cordilleras, and he also spoke with appellant on the morning of the trial. The doctor had also reviewed appellant's significant past psychiatric history. The records disclosed that appellant had been involved in the San Mateo County mental health system "intermittently but relatively uninterrupted" for approximately 26 or 27 years since 1988 or 1989. There had been 21 documented admissions in the Bay Area, and there were additional psychiatric admissions between 2010 and 2014 in San Diego. The records also indicated that at certain times, appellant had been engaged in some work, been on her own, and been supported and assisted by her mother, other family members, and a boyfriend. Appellant also had a child. Having read appellant's records, Dr. Mangiameli opined that the appellant's difficulties as a result of her mental health disorder had been relatively persistent even during times of more independent functioning.

At trial Dr. Mangiameli opined that appellant suffered from a psychotic disorder that did not neatly fall into a category. Her "most recent diagnosis" was "rather lengthy, . . . it would be psychosis NOS, not otherwise specified, rule out, which . . . means . . . it could be instead schizoaffective disorder or bipolar 1 disorder or meth-induced psychosis." Mangiameli believed that appellant's diagnosis fit most closely to schizoaffective disorder, which was a combination of mood symptoms, which appellant would readily describe as "her depressive difficulties," and an underlying psychotic disorder, which remained even in the absence of the mood symptoms. Appellant readily related that she had mood problems, which she referred to as "being seasonal." Appellant's explanation for her symptoms was that she had a thyroid disorder since the age of three that needed to be treated, and that the condition caused her to suffer symptoms similar to psychosis. She very strongly believed she did not have a primary psychotic disorder.

Dr. Mangiameli testified that appellant exhibited symptoms of the diagnoses during his evaluation as well as during a discussion he had with appellant on the morning of the trial. Appellant's most prominent and persistent symptom was "grandiose delusions." She was fully sincere, believed, and discussed things that were of such remote possibility, particularly when linked together, that one was forced to determine that they came from a mental health disorder rather than actual life experience. For example, when speaking with appellant, she went from one statement to another. She would say, "I have \$300 million in a trust fund that is a result of me having been a Holocaust survivor at the age of three;" [a]nd that 'John Elway, the football player, is managing that trust for me. I know him through John Wayne.'"<sup>2</sup> Appellant also said she was the author of all of Madonna's songs and Michael Jackson's song, "Thriller," she wrote the "Terminator" and "Kindergarten Cop," and she was a friend of Arnold Schwarzenegger. At this point in the hearing, appellant spoke up in court and stated, "I'm related to him." Dr. Mangiameli opined that appellant's delusions were hard to treat. She was currently receiving monthly long-acting injections of an anti-psychotic drug, which appellant believed was helping her, and another medication for her mood swings. While hospitalized and at Cordilleras, appellant was totally compliant in taking her medications.

Dr. Mangiameli also discussed with appellant her plans in the event she were not subject to a conservatorship and released from Cordilleras. With regard to housing, appellant initially stated she would contact John Elway and receive some of the \$300 million in the trust fund to help support her. When the doctor expressed that the plan might take some time, appellant indicated she had a house in Santa Cruz and should that house not be available, she would have monies from that house that would be available. Appellant further stated she had a checking account with a balance of \$6,000, and she

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<sup>2</sup> Dr. Mangiameli testified that appellant gave him the telephone number for the Denver Broncos so that the doctor could contact John Elway. However, when the doctor called the Denver Broncos telephone number and made a request to contact John Elway, the person who answered the telephone said that "it would not be possible to do so directly."

could use that money to secure temporary housing. Appellant then said, “You now, if all of that falls through, I can go to Maple Street Shelter.” Appellant had not contacted the Maple Street Shelter, but there were a number of shelters that she was familiar with in San Francisco, she had once used shelters for seven months, and so she would do that if nothing else worked out. When the doctor was asked by county counsel what was unreasonable about appellant’s proposed housing plans, the doctor replied, “You know it sounds reasonable to me except in that because so much of the information and so much of her decision-making is not separated from severe delusional content, it makes it unlikely, and by history this is supported, for her to make consistently sound judgments with use of her money, of being able to determine the reality of her resources and how best to use them.”

Dr. Mangiameli opined that appellant was currently gravely disabled in that her mental health disorder prevented her from providing for her basic needs of food, shelter and clothing, despite appellant’s desire and articulation otherwise. According to the doctor, one of the “best examples” of appellant’s situation occurred in January 2015. Appellant had been brought to the San Mateo Medical Center by the police because of a complaint by appellant’s neighbors. Because the medical center was overflowing, appellant was transferred to a hospital in Fremont, where she was treated for approximately one week and then discharged to Redwood House, a place in the community that provided a lower level of care. Appellant stayed at Redwood House for only three days before she left and went “AWOL.” During appellant’s time at Redwood House, the staff reported that appellant was using alcohol and offering methamphetamine to the other residents. Appellant had not spoken to Dr. Mangiameli about the incident at Redwood House. Then, on February 15, 2015, “almost exactly a month” later, appellant was again brought to the San Mateo Medical Center by the police on a complaint that she was gravely disabled and a danger to others. The police report indicated appellant had a physical altercation with her mother, struck her mother in the arm, and broke her mother’s walker. Appellant was sufficiently aggressive and combative with the emergency response team that it was necessary to place her in restraints. While appellant

was being treated in the hospital's psychiatric emergency services department, the staff found it necessary to place appellant in restraints on two additional occasions. On February 15 or 16, 2015, appellant was moved to an in-patient unit and she stayed there for six weeks until March 25, 2015, and then she was transferred to Cordilleras where she was residing at the time of the trial.

On cross-examination, Dr. Mangiameli was questioned about certain information in the March 17, 2015, conservatorship investigation report (the report), which document was not admitted into evidence. Specifically, the doctor was asked to explain the report's use of the term "rule out" in describing appellant's diagnoses. Mangiameli explained that a physician might use the term "rule out" as to a specific cause of appellant's symptoms if the physician had either inadequate information or inadequate time to arrive at a complete diagnosis. Dr. Mangiameli was also questioned about the report's description of appellant's financial circumstances. The doctor confirmed that the report indicated that appellant had stated she was "part of a" trust, which owned a townhouse in San Mateo. The report also indicated that appellant received over \$1,400 per month in social security disability payments, which sum was deposited in a bank account. When asked about these payments, Dr. Mangiameli declined to speculate that if appellant had not written checks on that bank account for five months she would have over \$6,000 in the account. The report also indicated that on two prior occasions appellant had been the subject of a temporary conservatorship, both of which had been ultimately dismissed. According to Dr. Mangiameli, however, the records suggested that the temporary conservatorships were pursued while appellant was previously at Cordilleras, and were dismissed only after appellant's temporary conservatorships were in place for several months.

Christina Webb testified that since 2010 she had acted as appellant's temporary conservator on three occasions. Webb also prepared the March 17, 2015, conservatorship investigation report. As to appellant's current estate, Webb had confirmed that appellant's bank account balance was "about \$6,000." However, according to Webb, appellant was not the owner of any real property, and, as regards to any "trust" property,

appellant was not “listed,” and “[i]t’s just property protected under the aunt’s name for the family.”

Appellant also testified on her own behalf. She indicated that she knew what a conservatorship was and she did not wish the court to appoint a conservator for her. She had always taken care of her own affairs and her money. She explained that when she had been previously subject to a conservatorship, the conservator never had time to take her to the dentist or shopping. On one occasion when appellant and the conservator did go shopping, the conservator refused to allow appellant to buy certain items that were on sale because it was not summertime. Appellant did not think a conservator was right for her because she had always been independent and paid her bills. When appellant spoke with Dr. Mangiameli, she told him that she had money, that she wanted to leave Cordilleras, and that she wanted to take care of herself as she had enough money to do so.

Appellant testified she was aware of her psychiatric diagnosis, and she had always taken her medication. If a conservatorship were not established and she was released, appellant would continue to take her medication and see either a doctor or psychologist for therapy. She had a psychologist in San Diego, and she would contact him, or other named doctors, for her medications. Appellant also believed \$6,000 was enough money for her to find a place to live. She had been living in San Diego in an independent living house, where she only had to pay \$700 a month for both rent and three meals a day, and she wanted to go back there.

When appellant’s counsel asked her if there was anything else she wanted to tell the court, appellant stated she had a house in Santa Cruz, which was “confirmed in Juvenile Court.” According to appellant, a named attorney was living in the house and the house was supposed to be given to appellant when she was 18 years old. A juvenile court judge had ordered the attorney to move out of the house in a timely manner and return assets that belonged to appellant. Appellant further explained, “[m]y brother was killed in the line of duty in front of that house in Santa Cruz so that can be judged by the Court today.” Despite appellant’s counsel saying he had no further questions, appellant continued, “Also, there was – my other brother is an – he was an officer in New York and

San Francisco, who was living in the house with them. Filed – sued the County of Santa Cruz, and there is a trust fund because they never contacted me, next [of] kin. And so that’s all I have to say.”

On cross-examination, appellant described her mental health disorder in the following manner: “I suffer from depression. I suffer from this thyroid thing that needs to be removed. If you ever read about the thyroid, I do get manic. Around the time . . . when my menstrual cycle and my thyroid act together, I do get wiggy.” Consistent with her testimony on direct, appellant repeated that if she were not subject to a conservatorship and released that day she would live in San Diego. When asked why she was in the Bay Area, appellant discussed the circumstances of a “custody battle” concerning her 8-year-old child. She explained that a court had reinstated her parental rights and granted her sole custody of the child, but the child’s foster parents had been permitted to illegally adopt the child. She stated that she wanted to “take the \$6,000 and possibly hire an attorney” to regain custody of the child, whom she missed very much. She also testified that she had worked in a preschool and for a school district.

In response to the court’s questions, appellant testified regarding her relationships with John Elway and John Wayne. Appellant said, “I grew up with John Elway. . . . [A]ctually, John Elway is in trouble with Italy for actually kidnapping me. I was in – and that was when I was three years old, I was supposed to stay in Italy, and he kidnapped me and brought me to Hollywood where they adopted me. [¶] . . . [¶] . . . And my older brother and him both have – John Wayne is my older brother’s, who died in the line of duty in Santa Cruz, his father is John Wayne.”

After both counsel submitted on the issue of grave disability, the court found that appellant was gravely disabled. The court stated: “I agree with the doctor that, . . ., kind of on the surface, . . . it sounds like . . . [appellant] would be able to care for herself. But, especially after hearing her testify, it seems like her delusions are so intertwined with her that I think it would be unlikely and extremely difficult for her to take care of herself.” The court further found that appellant had limited insight regarding the nature of her mental health disorder. Accordingly, the court found “beyond a reasonable doubt that

[appellant] would not be able to provide for” her basic needs of food, shelter and clothing, and declared that the conservatorship had been established.

**B. Special Disabilities Phase**

Recalled as a witness, Dr. Mangiameli testified that in his opinion if the court ordered a conservatorship, appellant should not retain her right to drive an automobile, her right to enter into contracts, her right to refuse treatment directly related to her being gravely disabled, her right to refuse routine medical treatment, or her right to possess firearms or other deadly weapons. In the doctor’s opinion, the intertwining of appellant’s delusions and actual events was so pervasive that the doctor did not believe appellant could make reliable judgments of any nature that would involve safety.

**C. Trial Court’s May 12, 2015, Order**

The court issued an order appointing the Public Guardian as conservator of appellant’s person and estate. The conservatorship order authorized the Public Guardian to place appellant in an appropriate treatment facility and imposed special disabilities prohibiting appellant from possessing a driver’s license, entering into contracts, possessing firearms or other deadly weapons, and refusing to or consenting to any treatment related or unrelated to her grave disability. Appellant’s timely appeal ensued.<sup>3</sup>

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<sup>3</sup> Due to the passage of time the order under review expired on May 11, 2016. Nonetheless, “[e]ven if a conservatorship terminates prior to appellate review, the appeal is not moot if it raises issues that are capable of repetition yet avoiding review. [Citation.]” (*Conservatorship of Carol K.* (2010) 188 Cal.App.4th 123, 133 (*Carol K.*); see *Conservatorship of George H.* (2008) 169 Cal.App.4th 157, 161, fn. 2 [“[a]n LPS conservatorship automatically expires after one year (§ 5361), and this order has expired;” “[w]e agree with the many cases that hold that the appeal should be heard because it raises issues that are capable of recurring, yet evading review because of mootness”]; *Conservatorship of Smith* (1986) 187 Cal.App.3d 903, 910, fn. 4 (*Smith*) [“[a]ppellant’s conservatorship expired on September 27, 1986, and thus is technically moot;” “[b]ecause the [LPS] allows for an indefinite series of one-year commitments, we exercise our discretion and decide” the issue of the sufficiency of evidence to support the conservatorship].)

## DISCUSSION

### A. Applicable Law and Standard of Review

“The LPS Act provides, *inter alia*, for emergency and long-range assistance to ‘gravely disabled’ persons.” (*Conservatorship of Early* (1983) 35 Cal.3d 244, 247.) As applicable herein, the LPS Act defines “gravely disabled” as “[a] condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.” (§ 5008, subd. (h)(1).) To establish a conservatorship, the trier of fact must find, beyond a reasonable doubt, that the person is gravely disabled as defined in section 5008, subdivision (h)(1). (*Conservatorship of Johnson* (1991) 235 Cal.App.3d 693, 697.)

“In reviewing a conservatorship, we apply the substantial evidence standard to determine whether the record supports a finding of grave disability. The testimony of one witness may be sufficient to support such a finding. [Citation.] We review the record as a whole in the light most favorable to the trial court judgment to determine whether it discloses substantial evidence.” (*Carol K.*, *supra*, 188 Cal.App.4th at p. 134.) “Substantial evidence includes circumstantial evidence and the reasonable inferences flowing therefrom. [Citation.]” (*Conservatorship of Walker* (1989) 206 Cal.App.3d 1572, 1577.) Additionally, “we are bound by the established rules of appellate review that all factual matters will be viewed most favorably to the prevailing party [citations] and in support of the judgment [citation]. All issues of credibility are likewise within the province of the trier of fact. [Citation.] ‘In brief, the appellate court ordinarily *looks only at the evidence supporting the successful party, and disregards the contrary showing.*’ [Citation.] All conflicts, therefore, must be resolved in favor of the respondent. [Citation.]” (*Nestle v. Santa Monica* (1972) 6 Cal.3d 920, 925-926.)

### B. Substantial Evidence Supports the Trial Court’s Finding that Appellant is Gravely Disabled

Appellant does not challenge the trial court’s finding that she suffers from a qualifying mental health disorder. She argues only that the record lacks substantial evidence showing that, as a result of her mental health disorder, she is unable to provide

for her basic personal needs for food, clothing, or shelter. According to appellant, respondent introduced evidence that appellant continued to experience delusional symptoms of her mental health disorder, but failed to present evidence that appellant – who had access to sufficient financial resources – currently lacked housing, exhibited signs of malnutrition or poor hygiene, or wanted for appropriate clothing. She then quotes from *Smith, supra*, 187 Cal.App.3d at p. 909: “Bizarre 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.” However, after reviewing the evidence in the light most favorable to upholding the conservatorship, we conclude Dr Mangiameli’s testimony, which was confirmed in part by appellant’s testimony, constitutes substantial evidence from which the trial court could find, beyond a reasonable doubt, that appellant was gravely disabled at the time of the May 12, 2015 trial.

In challenging the sufficiency of the evidence, appellant asks us to consider Dr. Mangiameli’s expert testimony that “because so much of the information and so much of [appellant’s] decision-making is not separated from severe delusional content, it makes it unlikely, and by history this is supported, for her to make consistently sound judgments with use of her money, of being able to determine the reality of her resources and how best to use them.” Appellant then argues that the doctor’s testimony does not support a finding of grave disability because the LPS Act does not demand that a person “make consistently sound judgments with the use of her money” or be able to determine how “best” to use her financial resources. However, “[i]t is well settled that the trier of fact may accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted. [Citations.] As [the court] said in *Nevarov v. Caldwell* (1958) 161 Cal.App.2d 762, 766, ‘the [trier of fact] properly may reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus

weaving a cloth of truth out of selected available material. [Citations.]’ ” (*Stevens v. Parke, Davis & Co.* (1973) 9 Cal.3d 51, 67-68.) Consequently, the trial court was free to reject those portions of Dr. Mangiameli’s testimony challenged by appellant, and consider other portions of the doctor’s testimony and other evidence in reaching its findings. Specifically, from the unchallenged portions of Dr. Mangiameli’s quoted and unquoted testimony, together with appellant’s testimony evidencing her delusions (access to some \$300 million and real property held in trust), the trial court could reasonably infer that despite the fact that appellant was medication compliant, she still suffered from a mental health disorder that was interfering with her ability to recognize the reality of her financial resources, and thereby, make rational decisions regarding financial matters. As such, there was substantial evidence from which the trial court could find, beyond a reasonable doubt, that by reason of appellant’s mental health disorder, she was rendered “unable to carry out the transactions necessary for survival or otherwise provide for . . . her basic needs of food, clothing, or shelter.” (*Carol K., supra*, 188 Cal.App.4th at p. 134.) “When there is substantial evidence . . . that sustains the judgment an appellate court will not substitute its evaluation of the evidence . . . for that of the trial court. [Citations.]” (*Romero v. Eustace* (1950) 101 Cal.App.2d 253, 254.) By her arguments, appellant essentially asks us to reweigh the evidence and the reasonable inferences that could be drawn therefrom and substitute our judgment for that of the trier of fact. We decline to do so.

We also reject appellant’s argument that *Smith, supra*, 187 Cal.App.3d 903, is instructive in this case. In *Smith*, the record contained testimony from a psychiatrist, who “diagnosed appellant as suffering from a paranoid delusion, a condition manifested by appellant’s fixation on the Eureka Church of God. According to the psychiatrist, appellant believed that she was the only person who could interpret the Bible. The psychiatrist concluded that appellant was ‘gravely disabled’ because her mental [health] disorder caused behavior which brought her into conflict with the community. However, the psychiatrist also concluded that *her cognitive intellect and most of her personality was intact and, despite the disorder, she could feed and clothe herself and provide for her*

*own place to live.” (Id. at p. 907; italics added.) Thus, the evidence in Smith demonstrated that, by definition, Smith was not gravely disabled as her mental health disorder did not render her unable to provide for her basic needs of food, clothing, or shelter. The record here does not contain expert testimony similar to that proffered in Smith. Accordingly, we conclude Smith is factually distinguishable and does not require reversal in this case.*

**DISPOSITION**

The May 12, 2015, order is affirmed.

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Jenkins, J.

We concur:

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McGuinness, P. J.

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Pollak, J.

*Conservatorship of the Person and Estate of C.G., A145477*