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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(El Dorado)

Conservatorship of the Person and
Estate of KARI S.

JANET WALKER-CONROY, As Public
Guardian, etc.,

Petitioner and Respondent,

v.

KARI S.,

Objector and Appellant.

C069026

(Super. Ct. No.
PMH20110053)

Kari S., a Lanterman-Petris-Short (LPS) Act conservatee, appeals the order finding that as a result of a mental disorder, she is gravely disabled and unable to provide for her basic personal needs of food, clothing and shelter. She contends there is not substantial evidence supporting the order. We disagree and affirm the order.

RELEVANT FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Kari was diagnosed with schizoaffective disorder, bipolar type. She was first psychiatrically hospitalized in 2002 and has been psychiatrically hospitalized three times since then. Over the course of her mental illness, she has at various times, believed a camera and a cochlear device had been implanted in her, that someone was threatening to kill her daughter, and that her food was being poisoned. She has exhibited bizarre, agitated behavior and experienced paranoid and grandiose delusions. In 2002, her belief that her food was being poisoned resulted in her losing 15 pounds in a very short period of time. In each of her hospitalizations, she has denied any mental illness and refused treatment. Because of her refusal to cooperate with treatment, she has remained delusional. In each hospitalization, a court ordered she be involuntarily medicated. Upon discharge from each hospitalization, she stopped taking medication and did not follow up with outpatient mental health services.

In March 2011, Kari was brought to the El Dorado County Psychiatric Health Facility after a welfare check by a social worker. She had been acting extremely paranoid and guarded, and there were concerns about her ability to provide food and heat for herself. A neighbor had been providing food for Kari "for an extended period of time." However, the neighbor could no longer provide the food. Kari had "cleaned out her pantry and gotten rid of frozen food and canned food" she believed "had gone bad" or been poisoned. Neighbors had also provided Kari

with wood, but she quickly burned the wood and had no other source of heat in her home. Kari also continued to have grandiose delusions about her income and employment. She claimed to have numerous sources of income, owned millions of dollars worth of vintage cars and single handedly ran an apple orchard on 13 acres of property. Kari indicated she had worked for the military but was not authorized to reveal any additional information. Kari's plan for obtaining food was to drive herself to the store to get groceries at any time; but, in fact, there was no working vehicle on her property, she had no source of transportation and no ability to provide for her own food needs.

Kari denied any history of mental illness, denied taking any medication and denied ever having been at the psychiatric health facility. Based on her claimed lack of mental illness, she refused to consider taking medication. On April 5, 2011, the court authorized Kari to be involuntarily medicated. She continued to have significant delusions and lacked insight into her mental illness. The limited improvement in symptoms led the staff to believe that she was "cheeking" her medication rather than taking it. When the medication was put directly in her food there was further improvement in her symptoms, although she continued to exhibit paranoid ideation, symptoms of mania, limited insight and impaired judgment. Kari also continued to insist she was not mentally ill and did not need medication.

In May 2011, she was moved to the crisis residential treatment program. She remained "delusional, reluctantly

medication compliant, and maintain[ed] that she [was] not mentally ill and [could] take care of herself. . . . [N]eighbors and family members . . . expressed concern about her lack of income which results in her inability to provide consistent food, heat and medical care for herself."

Kari had been living at her deceased parent's apple ranch for about a year and a half. Although there were a number of assets, including a home, land and vintage cars, the titles and deeds were held either in the name of the family trust or her late father. The only living trustee of the family trust is George Montgomery, a family friend. Montgomery has control over everything placed in the trust and Kari was not a direct beneficiary of the trust. Kari did not own any of the property or assets in the trust. She did not have any bank accounts or other assets. Her only property was a Chevy Nova which was not in running condition. There was no rental agreement allowing Kari to live on the ranch. The house had not yet been placed in the trust.

Kari had no income. She was eligible for social security benefits, and had received them from 1995 to 2002. The trust provisions indicate monies are not to be given directly to Kari, so as not to preclude her from receiving government assistance, as in a special needs trust. During the pendency of the conservatorship, the public guardian's office did not receive any income on Kari's behalf. The Mental Health Department paid for her food, propane, electricity and transportation to mental

health services and the grocery store. The Mental Health Department cannot sustain those payments on a long-term basis.

Kari testified she owned the apple ranch outright, owned 17 vintage cars, and all the property. She testified Montgomery had been paying the bills, but he did "something stupid," something he was not supposed to do, resulting in the account being frozen. She reported her net worth was upwards of a million dollars, held in the family trust. She had income of approximately \$3,100 per month, but was not sure if the money would "show up in the mail." She did not know where her mail was, as it was being forwarded somewhere. She was also planning on liquidating and selling a few items to gain some income.

Kari made clear if she were not conserved, she would not apply for social security benefits, because she has no reason to: she is "happy and healthy with no diseases or illnesses, and I've always been able to make ends meet or, you know, do a lot better than that." She also testified she would not apply for social security even if she had no income and was in a "really desperate situation." She felt applying for social security would be "like the worse [sic] thing on the face of the earth"

Over the years, family members and neighbors had tried to assist Kari, but were no longer able to provide that assistance. In the last year to year and a half, a number of Kari's utility bills had not been paid. Specifically, the electricity bill had not been paid for "quite some time" and the propane bill had not been paid for a year and a half. When the propane bill was

paid, the check bounced. Kari's daughter then paid the balance to get the tank filled. When the tank ran low again, the propane company tried to contact Kari, but her phone was out of order and they could not reach her. So, they removed the tank and cancelled the account.

As to the claims that she had no sources of food or heat, Kari testified those statements were lies. She had a propane heater, electric heating, two small electric heaters and a wood stove. Kari denied that the propane tank had been removed because of lack of payment, but rather explained she had been committed when the tank got to 10 percent and when the company called she did not answer, so the propane tank had been removed. She also stated there were "plenty of groceries" in the house. Kari did not have to pay rent, her electricity bills were only about \$50 a month, and she had six months worth of propane. The average cost for propane was between \$180-\$200 per month. She also testified she had "plenty of wood."

Kari testified she usually gets food from the grocery store, and she had food the church had brought to "replenish" her five to 10 year supply. She had to replenish her supplies because she "had to throw out about a thousand dollars worth of food. I had a problem where I couldn't tell if somebody had poisoned the food or something got into the food. But then I had to throw out all the cans because the cans were out of date. And I threw out everything in the freezer because the freezer had - something happened to the electricity at one point where the -- I'm not sure what happened. Everything got kind of

freezer burned. Then I threw out all the flours and everything that was kind of - you know, all the baking goods. I threw all that out because they had like little bugs or something in it. . . . And it could have got that way from the heat, but I'm not sure. So I threw everything out and was just getting all new." She reported it had taken her quite a few months to throw everything out. Kari explained as part of her religious beliefs, her church believes in maintaining a minimum of five years food supply. She insisted it was her church that had given her food, not her individual neighbors, and that the bishop had arranged for it.

At the hearing, Kari also made clear if she were not conserved, she would not take medication. Kari denied having any mental health diagnosis or disorder. She denied taking medication of any kind, except when she is in mental health facilities, because she is "healthy, happy, no diseases or illness. Why rock a boat. You don't fool with Mother Nature" She could not recall what medications had been prescribed or what they were intended to treat. She also described having serious side effects from the medication and stated she would "really prefer to never take anything ever again I really like my health and that. So I very much like the difference between how healthy I am versus medication"

Based on her review of Kari's social and psychiatric history, and investigation of her finances and medical condition, social worker Cheree Haffner concluded Kari's ongoing

resistance to medication, and the attendant delusions, prevented her from participating in mental health services and without that assistance, she is unable to provide for her own "food, clothing and shelter without assistance and even with assistance [she] has been unable to avail herself of the assistance due to her mental illness." Accordingly, Haffner concluded Kari was gravely disabled.

Deputy Public Guardian Mari Robertson testified as an expert in the conservatorship process. Based on her review of the records of Kari's multiple hospitalizations, Robertson concluded Kari was "absolutely not going to voluntarily take part in our services." Based on Kari's lack of insight into her utility situation, her inability to understand about the need to pay bills, and her belief that she owns the home and can sell things within it to provide for herself, Robertson concluded Kari was not able to provide for her own food, clothing or shelter. Robertson also opined Kari's lack of insight into her mental illness and refusal to take medication inhibit her ability to provide for herself, because it prevents her from seeking assistance such as social security. Without social security, Kari has no income and no ability to pay for, and provide herself with, her needs for daily support.

Dr. Price, the medical director at El Dorado County Health Services, examined Kari. He observed she suffered multiple delusions, and made numerous claims about various assets and sources of income, none of which could be confirmed. Kari's family and friends reported she had no source of income and had

been relying on neighbors and members of her church to provide her with food. While hospitalized, Kari expressed grandiose delusions and "displayed a profound lack of insight regarding her mental condition. Her overall judgment also remains significantly impaired." Kari made minimal improvement while on medication and continued to believe she was able to provide for her own care; however, this belief appeared to be a product of her multiple delusions as she "has been unable to consistently provide for her own food, clothing and shelter." Dr. Price recommended Kari be placed in an LPS Conservatorship.

The court found Kari was gravely disabled and there was no viable evidence of any third party assistance available from friends, family or neighbors. Accordingly, the court appointed the public guardian as the LPS Act conservator of the person and the estate. The court also imposed special disabilities, denying Kari the privilege of possessing a driver's license, the right to enter into contracts, the right to refuse treatment, and the right to possess a firearm or other deadly weapon.

DISCUSSION

To establish a conservatorship under the LPS Act, the public guardian must prove the proposed conservatee is gravely disabled beyond a reasonable doubt. (Welf. & Inst. Code,¹ § 5350; *Conservatorship of Smith* (1986) 187 Cal.App.3d 903, 909.) As relevant in this case, to establish "grave

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

disability," the evidence must support an objective finding that due to mental disorder, the person, "is unable to provide for his or her basic personal needs for food, clothing, or shelter." (§ 5008, subd. (h)(1)(A); *Conservatorship of Carol K.* (2010) 188 Cal.App.4th 123, 134.)

"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. Substantial evidence, which is evidence that is reasonable, credible, and of solid value, also includes circumstantial evidence. [Citation.]" (*Conservatorship of Carol K., supra*, 188 Cal.App.4th at p. 134.) "Substantial evidence includes circumstantial evidence and the reasonable inferences flowing therefrom." (*Conservatorship of Walker* (1989) 206 Cal.App.3d 1572, 1577.) A lack of insight into one's mental illness and the concomitant reluctance to accept treatment can support a finding of grave disability. (*Ibid.*; *Conservator of Guerrero* (1999) 69 Cal.App.4th 442, 446-447.)

Here, there is ample evidence supporting the finding that Kari is gravely disabled. Kari does not challenge the conclusion that she is mentally ill. Rather, she contends there is not substantial evidence that she cannot provide food, clothing or shelter for herself because of that mental illness. In making this argument, Kari claims the evidence that she could

not provide food, clothing or shelter for herself "ignored readily apparent facts, and was focused on whether or not the county could verify her means of support rather than how [Kari] was gravely disabled by a lack of visibility in her means of support." This argument turns the substantial evidence standard of review on its head. In essence, Kari is asking us to sit as a finder of fact and weigh the evidence. This we cannot do. Rather, on review, we assess only whether substantial evidence exists to support the finding of the trial court. That substantial evidence may also exist supporting a contrary finding is irrelevant for our purposes.

The evidence shows Kari has a history of denying her mental illness and refusing medical treatment. Kari herself made clear through her testimony that because she does not believe she has any mental illness, she will not take medication if she is not conserved. Also, because she does not believe she is mentally ill, and believes she has alternate sources of income, she will not apply for social security benefits. Without those benefits, she lacks the means to purchase food or pay her utility bills, providing the home with electricity and heat. Kari's plan to obtain food from the grocery store is only viable if she has income, which she does not have and which her mental illness is precluding her from seeking. Kari's plan to liquidate assets and sell property is not viable, as she owns no assets to liquidate or property to sell. Family and neighbors have helped Kari in the past, paying her bills and providing her with food, but will not continue to provide that assistance. The evidence

supports the inference that to the extent Kari has been able to maintain food and shelter it is only with the assistance of her family and neighbors, assistance which will no longer be provided. Kari's delusions prevent her from providing herself with food and shelter. Moreover, with no third party willing, the assistance Kari needs is not available outside a conservatorship. Dr. Price, social worker Haffner and Deputy Public Guardian Robertson each noted Kari lacked insight into her mental illness, was resistant to medication, suffered from delusions and was unable to provide for herself. Accordingly, each concluded she was gravely disabled. This is substantial evidence supporting the trial court's finding.

DISPOSITION

The order appointing the conservator is affirmed.

BLEASE, Acting P. J.

We concur:

ROBIE, J.

DUARTE, J.