

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

Conservatorship of the Person and Estate of
RICHARD BEN HERSHBERGER,

B236505

EMILY STUHLBARG et al., as
Coconservators, etc.,

(Los Angeles County
Super. Ct. No. BP124562)

Petitioners and Respondents,

v.

MELIKE DEWEY HERSHBERGER,
Objector and Appellant.

APPEAL from orders of the Los Angeles Superior Court. Reva G. Goetz, Judge.
Affirmed.

Melike Dewey Hershberger, in pro. per., for Objector and Appellant.

No Appearance for Petitioners and Respondents.

On September 14, 2010, Emily Stuhlbarg and Richard A. Norene filed petitions for appointment of a probate conservator and a temporary conservator of the person and estate of Richard Ben Hershberger. The petitions and attachments thereto identified Hershberger's spouse as Melike Amjarv Hershberger and stated her residence address.¹ Documents in the Superior Court file reflect that since July 2007 Melike has been on the vexatious litigants list maintained by the Administrative Office of the Courts.

The petitions stated that Richard was 80 years old and residing with his sister, that Stuhlbarg and Norene were professional fiduciaries and were already serving as conservators for Richard's sister, and that both Richard's son and Richard's sister's probate investigator had asked Stuhlbarg and Norene to petition for conservatorship of Richard because he suffered from dementia, had been taken advantage of financially, and was subject to undue influence. According to the petition, Melike picked up Richard from his residence in June 2010, drove him to Las Vegas, married him there, and dropped him off at his residence a few days later, having charged all expenses for the trip to Richard's credit card. The petition stated that Richard "has given most of his money away, to anyone who asks him for it, including another woman he recently met, telemarketers, charities, sweepstakes and anything or anyone else who requests money from him."

The Superior Court file contains a proof of service signed under penalty of perjury that states that on September 16, 2010, a notice of hearing on the petition to appoint a probate conservator was served by mail on Melike at her residence address. The notice stated that the hearing would be conducted on November 4, 2010.

The Superior Court file contains a proof of service signed under penalty of perjury that states that on September 16, 2010, a notice of hearing on the petition to appoint a temporary conservator was served by mail on Melike at her residence address. The notice stated that the hearing would be conducted on September 23, 2010.

¹ Because they share a last name, we will refer to Richard and Melike by their first names.

At the hearing on September 23, the court granted the petition to appoint a temporary conservator. The court also continued the hearing on the petition to appoint a probate conservator from November 4 to December 1, 2010.

The Superior Court file contains a proof of service signed under penalty of perjury that states that on September 23, 2010, an amended and supplemental notice of hearing on the petition to appoint a probate conservator was served by mail on Melike at her residence address. The notice stated that the hearing originally calendared for November 4, 2010, had been continued to December 1, 2010. The notice also identified the department in which the hearing would be conducted, which differed from the department in which the hearing had originally been calendared.

At the hearing on December 1, 2010, the court continued the hearing to January 4, 2011, and extended the temporary conservatorship to that date.

At the hearing on January 4, 2011, the court granted the petition for appointment of a probate conservator.

On March 16, 2011, Melike filed in propria persona a petition for removal of Richard's conservator. No part of the petition or attachments thereto was signed under penalty of perjury. In the petition, Melike stated that she "did not receive proper notices of the hearings for the conservatorship" and that "[t]he only notice I received was after the hearing date for the first temporary conservatorship hearing." She added that "[m]y address on the envelope was intentionally written wrong" because Richard, his sister, and his son all allegedly knew that such notices should be sent to Melike's post office box; Melike added, "I receive all my mail there." Melike also made certain other arguments and allegations, but she does not raise them on appeal so we need not repeat them.

Stuhlbarg and Norene filed objections to Melike's petition and requested an award of attorney fees.

The court initially heard Melike's petition on May 6, 2011. The court did not rule on the petition and continued the hearing to August 26, 2011.

It appears from the Superior Court file that Melike next caused deposition subpoenas for business records to be served on Stuhlbarg and Norene and also on a

business entity identified as “Exellent Senior Care.” On June 23, 2011, Stuhlbarg and Norene filed objections to and motions to quash all of the subpoenas, as well as requests for attorney fees. The motions to quash presented, among other things, evidence of Melike’s status as a vexatious litigant.

On July 14, 2011, Melike filed in propria persona a petition to have herself appointed Richard’s conservator.

On July 20, 2011, the court heard and granted the motions to quash. The court awarded sanctions against Melike totaling \$2,960.

On July 28, 2011, Stuhlbarg and Norene filed notice that Melike was in violation of the prefiling order entered against her when she was declared a vexatious litigant in 2007. The notice stated that Melike had violated the prefiling order by filing, in propria persona and without the permission of the presiding judge, the March 16 petition for removal of conservator and the July 14 petition to have herself appointed conservator.

On August 23, 2011, Melike filed in propria persona a motion seeking, among other things, to overturn the order declaring her to be a vexatious litigant. The hearing on her motion was calendared for September 23, 2011.

On August 26, 2011, the court conducted the continued hearing on Melike’s petition for removal of conservator and also heard her petition for appointment of herself as conservator. The court noted that Melike was a vexatious litigant who had failed to obtain permission of the presiding judge before filing the petitions in propria persona. The court denied both petitions without prejudice.

On September 23, 2011, the court heard Melike’s motion seeking, among other things, to overturn the order declaring her to be a vexatious litigant. The court denied the motion.

Also on September 23, 2011, Melike filed a notice of appeal from the court’s orders of January 4 (granting the petition for probate conservatorship),² May 6

² The notice of appeal says “January 14” rather than “January 4,” but we take that to be a typographical error. The superior court file contains no order dated January 14, 2011.

(continuing the hearing on Melike's petition for removal of conservator), July 20 (granting the motions to quash and awarding sanctions), August 26 (denying without prejudice both of Melike's petitions), and September 23, 2011 (denying Melike's motion to overturn the order declaring her a vexatious litigant). The administrative presiding justice of this court granted her permission to proceed with the appeal.

In her opening brief, Melike presents only one argument against all of the challenged orders: She argues that the orders must be reversed because the initial notices of the hearings on Stuhlbarg and Norene's petitions were, according to Melike, sent to the wrong address. We reject the argument for multiple reasons. Neither the record on appeal nor the superior court file contains any evidence that the address to which those notices were sent was not Melike's residence address at that time. Even Melike's unsworn statement in her petition to remove the conservators does not state that the address to which those notices were sent was not then her residence address. Moreover, the same unsworn statement by Melike expressly acknowledges that she did receive a notice after the hearing on the petition for appointment of a temporary conservator. But the superior court file reflects that all of the notices sent to Melike between the hearing on the petition for appointment of a temporary conservator and the filing of her petition for removal of the conservator were sent to the same address as the original notices of the hearings on Stuhlbarg and Norene's petitions. Melike fails to explain how she managed to receive the notice that she concededly received, given that, according to her, all of those notices were incorrectly addressed. In addition, later documents such as the motions to quash were sent to Melike both at her post office box and at the address that she now claims, in unsworn statements in her opening brief on appeal, is her present residence address. Melike fails to explain how the putatively defective notice of the original petitions constitutes a ground for reversal of the orders on the motions to quash, which were concededly sent to both of the addresses that she has requested.³

³ Because we conclude that Melike's sole argument on appeal is meritless, we need not consider whether all of the orders identified in her notice of appeal are appealable, or whether her notice of appeal was timely filed as to all of them.

DISPOSITION

The orders are affirmed. Respondents shall recover their costs of appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.