Filed 1/28/26 Estate of McCarthy CA3

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

Estate of EUNICE MAY MCCARTHY, Deceased.	C102682
TED TAYLOR, Petitioner and Respondent, v. PATRICIA HUTCHINS, Objector and Appellant.	(Super. Ct. No. CVPB19-0030038)

This is a probate case involving a dispute between a father (Ted Taylor) and daughter (Patricia Hutchins) regarding the estate of Eunice May McCarthy, Taylor's mother and Hutchins' grandmother. Hutchins appeals from the judgment entered in favor of Taylor following a three-day bench trial. She argues reversal is required for

insufficient evidence, including no substantial evidence to support the finding of financial elder abuse, which was predicated on McCarthy's improper conveyance of her home to Hutchins (via undue influence) shortly before McCarthy died. Finding no basis for reversal, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

In August 2017, McCarthy executed a grant deed conveying her home in Redding to her granddaughter, Hutchins. Less than two weeks later, McCarthy died. At the time McCarthy executed the grant deed, she was 94 years old, suffering from dementia, and under end-of-life hospice care following a stroke. She was taking several prescription drugs, including morphine for pain and lorazepam for anxiety. Hutchins was McCarthy's primary caregiver, responsible for taking care of her daily needs. McCarthy's son (Hutchins' father), Taylor, was responsible for handling McCarthy's financial affairs.

In March 2019, Taylor filed a petition for probate of McCarthy's estate. The petition alleged that McCarthy died intestate and that the sole asset of McCarthy's estate was her home, which was estimated to be worth approximately $230,000. The petition claimed that Taylor was the sole beneficiary of McCarthy's estate under the laws of intestate succession.

In April 2019, the probate court granted Taylor's request to be appointed as the administrator of McCarthy's estate.

In August 2019, Taylor filed a verified petition against Hutchins for return of estate property (Prob. Code, § 850, subd. (a)(2)(d)), financial elder abuse (Welf. & Inst. Code, § 15610.30), and declaratory relief. Among other things, Taylor sought the return of the real property McCarthy conveyed to Hutchins shortly before she died--McCarthy's home in Redding. Taylor alleged that McCarthy lacked the capacity to make such a conveyance because (among other things) she was suffering from the effects of dementia, and that Hutchins improperly procured the conveyance of the property via undue influence. As a result of Hutchins' alleged financial elder abuse, Taylor sought an award

of attorney fees and damages in the amount equal to twice the value of the improperly conveyed real property.

Following a three-day bench trial in November 2023, which included testimony from McCarthy's treating physician (Paul Davis, D.O.)[1] and the notary who witnessed the execution of the grant deed (Emily Driver),[2] the probate court issued a detailed written order finding that Taylor had proved by overwhelming and "relatively undisputed" evidence that McCarthy lacked the requisite understanding, cognition, and/or capacity to knowingly, intentionally, and/or voluntarily execute the grant deed conveying her home to Hutchins. In concluding the grant deed was void and must be set aside, the court found that Hutchins, McCarthy's primary caregiver at the time of the conveyance, "took advantage of [McCarthy's] lack of capacity when [McCarthy] was obviously vulnerable, and literally on her death bed, while secreting this mission from other family members, thus engaging in undue influence." The court ordered Hutchins to restore full

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[1] Dr. Davis testified that he had been McCarthy's treating physician since "at least 2012" and had regularly treated her for years before she died. At trial, Dr. Davis opined that, as of May 2017, McCarthy no longer had the ability to provide informed consent for medical procedures, and had reached a level of physical and cognitive impairment that she "lacked capacity to make major legal decisions," including the capacity to execute the grant deed in August 2017. Dr. Davis further testified that McCarthy was unable to care for herself and relied heavily on Hutchins for her daily needs, and that the medications McCarthy was taking could have caused "even greater confusion than what she was already experiencing" from her dementia and other health issues.

[2] During her testimony, the notary (Driver) explained that Hutchins requested that she come to McCarthy's home to witness the execution of the grant deed. Driver further explained that when she arrived at McCarthy's home, Hutchins was the only other person there and McCarthy was asleep. According to Driver, McCarthy did not appear alert and had only been awake for approximately one minute before she signed the grant deed. Driver described McCarthy as "nonverbal, drugged up and out of it." She also noted that there was no discussion with McCarthy about what the grant deed was, and no effort was made to determine whether the grant deed reflected her wishes. Driver explained that it was her understanding that the objective of the grant deed was to avoid probate, as McCarthy was on her "deathbed."

title and ownership of the real property to McCarthy's estate. The court also ordered Hutchins to reimburse Taylor $16,000 for property tax payments and to pay damages to Taylor in an amount equal to twice the value of the improperly conveyed real property ($450,000) as a result of financial elder abuse, and to pay Taylor attorney fees and costs.[3]

Hutchins filed a timely notice of appeal. This matter was fully briefed and assigned to this panel in October 2025. Although Hutchins was represented by counsel in the probate court, she is a self-represented litigant on appeal. Hutchins filed an opening brief but did not file a reply brief. She has elected to proceed with only a clerk's transcript; thus, she is without a record of the oral proceedings before the probate court. As we next explain, Hutchins has failed to carry her burden to show reversible error.

DISCUSSION

I

Appellate Rules of Procedure

"It is well settled . . . that a party challenging a judgment has the burden of showing reversible error by an adequate record." (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574.) " ' "A necessary corollary to this rule is that if the record is inadequate for meaningful review, the appellant defaults and the decision of the trial court should be affirmed." ' " (*Jameson v. Desta* (2018) 5 Cal.5th 594, 609 (*Jameson*) [failure to provide an adequate record on an issue requires that the issue be resolved against the appellant];

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[3] The probate court first issued a tentative decision that recited its factual findings and concluded McCarthy lacked capacity and Hutchins engaged in undue influence, but also concluded that there was insufficient evidence of bad faith or financial elder abuse such that double or punitive damages would be warranted. Taylor objected and pointed out inconsistencies between the court's factual findings and resulting legal conclusions related to damages. After a hearing regarding the objections, the court ordered its tentative decision revised before finalizing, indicating that it agreed "with the argument of Plaintiff that, given the Court's findings of overwhelming evidence of the Decedent's lack of capacity and the Defendant's exertion of undue influence, the Plaintiff has indeed proved all the elements necessary to prevail in its claim for financial elder abuse."

see *Jade Fashion & Co., Inc. v. Harkham Industries, Inc*. (2014) 229 Cal.App.4th 635, 644 ["Where the appellant fails to provide an adequate record of the challenged proceedings, we must presume that the appealed judgment or order is correct, and on that basis, affirm"].) A record is inadequate, and appellant defaults, if the appellant predicates error only on the part of the record they provide, but ignores or does not present to the appellate court portions of the proceedings below that may provide grounds upon which the decision of the trial court could be affirmed. (*Uniroyal Chemical Co. v. American Vanguard Corp.* (1988) 203 Cal.App.3d 285, 302; see *Pringle v. La Chapelle* (1999) 73 Cal.App.4th 1000, 1003 [issues raised without the provision of an adequate appellate record for us to evaluate them are "deemed waived"].)

California Rules of Court, rule 8.120(b) provides: "If an appellant intends to raise any issue that requires consideration of the oral proceedings in the superior court, the record on appeal must include a record of these oral proceedings in the form of one of the following: [¶] (1) A reporter's transcript under rule 8.130; [¶] (2) An agreed statement under rule 8.134; or [¶] (3) A settled statement under rule 8.137." Here, as noted *ante*, Hutchins has elected to proceed with only a clerk's transcript. As a result, her appeal is treated as "an appeal on the judgment roll." (*Allen v. Toten* (1985) 172 Cal.App.3d 1079, 1082; *id*. at pp. 1082-1083.) In reviewing such an appeal, "we ' "must conclusively presume that the evidence is ample to sustain the [trial court's] findings," ' " and our "review is limited to determining whether any error 'appears on the face of the record.' " (*Nielsen v. Gibson* (2009) 178 Cal.App.4th 318, 324-325.)

"[T]he absence of a court reporter at trial court proceedings and the resulting lack of a verbatim record of such proceedings will frequently be fatal to a litigant's ability to have his or her claims of trial court error resolved on the merits by an appellate court. This is so because it is a fundamental principle of appellate procedure that a trial court judgment is ordinarily presumed to be correct and the burden is on an appellant to demonstrate, on the basis of the record presented to the appellate court, that the trial court

committed an error that justifies reversal of the judgment. [Citations.] 'This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.' [Citation.] 'In the absence of a contrary showing in the record, all presumptions in favor of the trial court's action will be made by the appellate court. "[I]f any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented." ' " (*Jameson, supra*, 5 Cal.5th at pp. 608-609; see *Estate of Fain* (1999) 75 Cal.App.4th 973, 992 ["Where no reporter's transcript has been provided and no error is apparent on the face of the existing appellate record," we must "presume[] that the unreported trial testimony would demonstrate the absence of error"].)

Appellant has the burden of overcoming the presumption of correctness (*Jameson*, *supra*, 5 Cal.5th at p. 609), which includes the obligation to present argument and legal authority on each point raised. This requires more than simply stating a bare assertion that the judgment is erroneous and leaving it to the appellate court to figure out why; it is not the appellate court's role to construct theories or arguments that would undermine the judgment and defeat the presumption of correctness. (*Dilbert v. Newsom* (2024) 101 Cal.App.5th 317, 323.) When an appellant asserts a point but fails to support it with reasoned argument and citations to pertinent authority, the court may treat it as waived or forfeited. (*People v. Stanley* (1995) 10 Cal.4th 764, 793; *Salas v. California Department of Transportation* (2011) 198 Cal.App.4th 1058, 1074; see *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd*. (2002) 100 Cal.App.4th 1066, 1078 ["Mere suggestions of error without supporting argument or authority other than general abstract principles do not properly present grounds for appellate review"].)

A self-represented litigant must comply with the same rules of procedure as an attorney because a contrary rule would be unfair to the other parties to litigation. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 985.)

With these procedural rules in mind, we turn to Hutchins' appeal.

II

Analysis

In her opening brief, Hutchins suggests that the judgment must be reversed for insufficient evidence, including no substantial evidence to support the finding of financial elder abuse, which was predicated on the determination that McCarthy improperly conveyed her home to Hutchins (via undue influence) shortly before McCarthy died. However, for judgment roll appeals, we must presume the lower court heard substantial evidence to support its findings. (*Nielsen v. Gibson, supra,* 178 Cal.App.4th at pp. 324-325; see *Oliveira v. Kiesler* (2012) 206 Cal.App.4th 1349, 1362 [the " 'absence of a record concerning what actually occurred at the trial precludes a determination that the trial court [erred]' "]; *Hodges v. Mark* (1996) 49 Cal.App.4th 651, 657 ["omission of the reporter's transcript precludes appellant from raising any evidentiary issues on appeal"].) Alternatively stated, Hutchins has waived or forfeited her substantial evidence challenge by not providing an adequate record on appeal for us to evaluate that challenge. (*LA Investments, LLC v. Spix* (2022) 75 Cal.App.5th 1044, 1062.)

And, having reviewed the record, no basis for reversal otherwise appears. Applying the appropriate presumption that the lower court was correct, with "all intendments and presumptions . . . indulged in favor of its correctness" (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133), we conclude that Hutchins has failed to carry her burden to affirmatively demonstrate prejudicial error (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564, 566; *Jameson, supra*, 5 Cal.5th at pp. 608-609). Hutchins, for her part, offers no reasoned legal argument, supported by citation to pertinent authority and facts in the record, demonstrating that reversal is required under the circumstances of this case. (See *Bullock v. Philip Morris USA, Inc.* (2008) 159 Cal.App.4th 655, 685 [an "appellant must affirmatively demonstrate error through reasoned argument, citation to the appellate record, and discussion of legal authority"].) Accordingly, we will affirm the judgment.

DISPOSITION

The judgment is affirmed. Taylor is entitled to recover his costs on appeal. (California Rules of Court, rule 8.278(a).)

/s/
Duarte, Acting P. J.

We concur:

/s/
Mesiwala, J.

/s/
Wiseman, J.*

* Retired Associate Justice of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.