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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

Conservatorship of the Person of T.M.	
PUBLIC GUARDIAN OF CONTRA COSTA COUNTY, Petitioner and Respondent, v. T.M., Objector and Appellant.	A172830 (Contra Costa County Super. Ct. No. P2500011)

T.M., who suffers from chronic schizophrenia, challenges as unsupported by substantial evidence a court order of conservatorship to the extent it disables her from consenting to or refusing medication and empowers her conservator to make those decisions for her. We disagree and affirm.

I. BACKGROUND

In January 2025, the Director of the Contra Costa County Health Services Department, on behalf of the Office of the Public Guardian (Public Guardian), petitioned pursuant to Welfare and Institutions Code sections

5350, 5352, and 5352.1[1] of the Lanterman-Petris-Short Act (LPS Act, § 5000 et seq.) for the appointment of a conservator for T.M. The petition alleged the establishment of the conservatorship was necessary because T.M. was gravely disabled as a result of a mental disorder and was unwilling to accept, or incapable of accepting, treatment voluntarily. The petition included a request that the court impose certain special disabilities under section 5357. An attached recommendation for a conservatorship from the Contra Costa Regional Medical Center states, "Currently, patient lacks insight into her mental illness and need for hospitalization, and therefore is unable and unwilling to voluntarily accept treatment due to her mental illness."

A court trial on the petition commenced on March 4, 2025.

A. *The Expert Testimony of Dr. Khan*

Psychiatrist Shahbaz Khan, M.D. testified on behalf of the Public Guardian as an expert in psychiatry. His expertise included the observation of psychiatric symptoms and diagnosis of mental health disorders, psychopharmacology, and the evaluation of grave disability.

Dr. Khan said he spoke twice with T.M., once in person for close to an hour and once over the phone for about 15 to 20 minutes. He also reviewed records of T.M.'s stays at certain facilities, reviewed deputy conservator notes, and spoke briefly with a nurse about T.M.'s ability and independence. He diagnosed T.M. with chronic schizophrenia, a permanent mental disorder characterized by symptoms that affect a person and cause impairment in a person's sense of self, well-being, and functioning in the community.

According to Dr. Khan, schizophrenia is characterized by symptoms such as hallucinations, delusions, disorganization of thought and speech,

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[1] Undesignated statutory references are to the Welfare and Institutions Code.

catatonia, and negative symptoms. A person with catatonia is in a withdrawn state of mind and can adopt a rigid physical position for long periods. There is no real treatment for catatonia except for antipsychotic medications (which treat schizophrenia more generally), but Ativan sometimes "activates" a person out of catatonia. Negative symptoms are characterized by a severe withdrawal of personality, which comes out as apathy, lack of motivation, and avolition—meaning the loss of a sense of willpower, and can affect a person's ability to complete activities of daily living like grooming, hygiene, and eating.

Dr. Khan said that schizophrenia is treated by, among other things, neuroleptic medication, but such medication does not treat schizophrenia "completely." T.M. was prescribed Clozaril, a neuroleptic medication that requires the patient to submit to periodic blood tests and is taken twice a day; Klonopin, an antianxiety medication, taken three times a day; and Risperdal, taken two times a day. She was also prescribed Olanzapine, another neuroleptic medication, to be taken every four hours as needed for treatment of any breakthrough symptoms of psychosis, agitation, madness, or irritability.

Dr. Khan said he interviewed T.M. in person on February 4, 2025, at the facility where T.M. was staying. T.M., about 47 years old, was cooperative, polite, and somewhat soft-spoken. She said she had stayed at various facilities over the previous four or five years and had been able to live on her own as an adult almost half her lifetime ago, when she was around 22 or 23 years old.

When Dr. Khan asked T.M. if she believed she had a mental health problem, she indicated that she had been told, but did not believe, that she suffered from schizophrenia. Rather, she believed she had special powers of

clairvoyance, extrasensory perception, and telepathy. She denied that she heard voices, but said she communicated and talked with a number of celebrities who were on her payroll, advising them and paying them hundreds of trillions of dollars, and receiving close to $10,000 back from them.

When Dr. Khan asked her what medication she was taking, T.M. mentioned Zyprexa, a brand name for Olanzapine, and Paxil, which treats depression symptoms. She said the medications helped her sleep and clear her thoughts but that she did not otherwise need them, and that she was compliant in taking them. While she spoke relatively clearly about the medications, "there were periods of some disorganization . . . and . . . a lot of illogical connections." She also said medicines, food, and drinks she took eventually came out of her body and went to more needy people via some magic that was controlled by a certain TV show.

T.M. also told Dr. Khan the delusion that she owned at least 400 businesses and partnerships, including real estate, a line of clothing and shoes, hotels, board and care facilities, and a hospital. She said she had about $80,000 in a bank account and said lots of her money was going to the Asian deficit, AAA, Medi-Cal, Medicare, other doctors, nurses, and others; that she had accounts and credit cards, with which she was able to pay bills; and that she had numerous jobs, including as a clothing and shoes designer, certified nurse assistant, San Francisco mobile police officer, and Supreme Court Justice of Contra Costa County.

In addition, T.M. told Dr. Khan that she was 38 months pregnant, and that the baby in her stomach went out of her and into her by magic, sometimes daily. Dr. Khan said she maintained this psychotic belief when he

questioned her about it, indicating the severity of her psychosis and, in turn, her dysfunctionality.

Dr. Khan spoke with T.M. about what she would do if she were living independently. In a disorganized response, she said she would go to Stanford and participate in some research or design, then put her 800 children to work or in daycare (Dr. Khan was not sure which), and would be able to shop for food at grocery stores like Safeway and for clothing at Macy's and Walmart. She said she owned and could stay in her two 25-bedroom houses, or she could stay in the hotels, the two board and care facilities, or the hospital that she owned. She also said something about a house or apartment in Rodeo, California, where she had lived in the past, and mentioned hotels like the Comfort Inn.

Dr. Khan asked T.M. about her plans to continue with psychiatric treatment if she were on her own. She gave "an ambivalent answer." She said that she took medication and might continue to take it, but that she did not see a need to do so because she did not believe she suffered from schizophrenia.

Dr. Khan also testified about a March 1, 2025 telephone interview he had with T.M. T.M. repeated her belief that she did not have schizophrenia and had extraordinary powers of telepathy and ESP. She said she talked to certain celebrities all the time who reassured her, were supportive, and were "peaceful." She then made a tangential remark about living in a peaceful house in Alameda. Asked if she planned to live in Alameda, she said she could stay at various hotels and board and care facilities, including a Comfort Inn in Palo Alto that she owned. She again spoke of owning various other properties and repeated versions of other things she had told Dr. Khan in the previous interview, often becoming disorganized in her thoughts and speech.

She appeared to know how to shop and cook, and talked about mixing chicken and various things that made some sense.

Dr. Khan reviewed records during his testimony that indicated T.M. had had some of the delusions she described for some time. The records also confirmed her catatonia and auditory hallucinations. About a month after her December 2024 admission at a hospital for catatonia and schizophrenia (according to T.M.'s own statements at the time), she was reported to be very impaired in performing activities of daily living, such as grooming and hygiene. Later in January 2025, apparently at another facility, she was reported to have remained in her room, had a blank stare and was unresponsive to questions, and refused dinner on multiple occasions, and it was further reported that "meds had to be brought to her room and she took them with some coaxing."

Dr. Khan concluded that T.M. had very limited insight into her schizophrenia. He thought that if she were no longer conserved, she might take her prescribed medications for a very brief period of time but that very soon her lack of insight, lack of judgment, and the severity of her symptoms would take over and she would not see a need to take them. Such a stoppage would lead to a significant deterioration of her symptoms and immense impairment in her ability to care for herself day-to-day. On cross-examination, he acknowledged that "[a] lot of schizophrenic patients will take their medication despite having poor insight." But he added, "They really have to be able to trust people around them that convinces them to take the medication."

B. ***The Testimony of Deputy Conservator Bove***

Andrew Bove testified that he had been the Contra Costa Public Guardian's deputy conservator for T.M. since January 3, 2025. He first met her in person on January 13, 2025, when she was in the hospital. She was

admitted because, by her own account, while staying at a warming center, she remained outside all night holding on to a bus stop pole, and then called for medical attention due to extreme weakness. She told Bove she was 20 months pregnant and would have a scheduled C-section procedure that evening, along with a "tummy tuck." She wanted to leave the hospital, and voiced unrealistic plans for where she would go.

At a February 2025 meeting with Bove, she said that if released she would get food at the Dollar Tree Store and Walmart in Stockton and that she had access to food through a hospitality business that she and her family owned. She also would be able to buy food with money she made from mandalas that she drew, selling them at "U.S. Press" in San Francisco, and also with $10,000 that her mother had given to her. She said she was 39 months pregnant. She also said she would be able to get her medications from three different doctors that she named.

Bove further testified that in conversations, T.M. maintained that she created a board and care facility seven years before and that Pete Rose, the former baseball coach, was on its board. At pretty much every conversation, T.M. asked him for help getting to Stanford stadium for her C-section and tummy tuck, which was to be performed in front of 10,000 people. She also claimed in conversation to own two 25-bedroom homes and that everyone receives $80,000 from Citibank every time she wakes up.

T.M. was always pleasant in Bove's meetings with her. She called him five times a day about topics like those he mentioned in his testimony.

C. *T.M.'s Testimony*

T.M. testified that if she was no longer conserved she would live at a kitchenette in Palo Alto. She received SSI, had $80,000 in her bank account, had credit cards, and would buy clothes and food at various retail stores. She

indicated she would eat frozen meals, fast food, or make her own food, and described a realistic recipe for enchiladas.

T.M. said she was told she was a schizophrenic. She did not agree, thinking instead that she had ESP, telekinesis, and clairvoyance. As examples, she indicated she had created books with certain celebrities about subjects such as friendship and family.

T.M. said she would be "glad' to follow a treatment plan and willing to take prescribed medication, including twice a day, that she would be able to obtain her medications at a public care center or other facility, set up a system reminding her to take them, and be willing to work with a guardian or case manager. She listed numerous medications she would be willing to take, and indicated she knew all her pills and would be willing to take blood tests, although she had a pulmonary embolism in her right leg that could be cured at a Stanford clinic, which had "purple suit, last regime, regime healing serum, blueberry and ginseng—well, AriZona green tea, and they provide condoms as well." Although she did not agree with her schizophrenia diagnosis, she would take her medication "[b]ecause that's what I'm classified as and I can be in trouble if I don't take the medications—right."

T.M. further testified that her father, Barack Hussein Obama, the second, the former President, gave her the $80,000 that was in her bank account. She would use that money to pay for taxis and other things. Also, her aunt Mallory, who ran Stanford and was the head of Palo Alto, and one of the members from T.M.'s group, Metallica, "who own all hotels or kitchenettes," would help pay for her kitchenette, which would cost $125 a month.

D. *The Court's Ruling*

Following closing argument, the court granted the conservatorship on the terms proposed by the Public Guardian. It found that T.M. had been

medication compliant at all the facilities discussed in the records presented to the court.

While the court stated its findings in a balanced and objective manner, the findings, in their totality, left little doubt about the court's overall assessment of T.M.'s condition. Referencing a note in the records about T.M.'s appreciation of a particular medication that "helped her feel centered and that she ended up in the hospital because she was unable to take care of herself[,]" the court thought "those entries do show some insight on [T.M.'s] behalf of recognizing at least what has been told to her by way of her mental health disorder and the symptoms she might be experiencing."

But the court went on to find T.M. also experienced symptoms of chronic schizophrenia that "actually interfered with her ability to provide for her activities of daily living," such as when "she stated that her religion made her not able to shower, . . . [when] her auditory hallucinations tell her not to talk when she is not responding, . . . when she was not able to increase her steps because she believed that she was pregnant, [and] when she acknowledged that she felt so sad that she couldn't get up and go to the bathroom."

The court found T.M. was polite and pleasant, had a very creative mind, and had reasonable plans for providing for her food and clothing. But though superficially reasonable, those plans made it plain "how strong [T.M.'s] . . . symptoms are," and that her various statements regarding her ownership of various properties and jobs were symptoms of her mental disorder; there was a "strong nexus between those symptoms and the inability to provide for shelter," the court found.

The court was unable to "say that [T.M.] would be non-compliant with her medication if off conservatorship" or that her symptoms were a result of

medication non-compliance. But notwithstanding the equivocal evidence of future non-compliance, the court concluded, "I find that the proof is beyond a reasonable doubt that [T.M.'s] diagnosis of schizophrenia is such that as a result of [her] symptoms she is unlikely to be able to provide for shelter . . . . And so for those reasons I do find the evidence before the Court does establish beyond a reasonable doubt that [T.M.] presently is gravely disabled."

Counsel for the Public Guardian then asked the court whether it wished to rule on issue of "powers and disabilities," and the court asked T.M.'s counsel to address whether it should give the conservator, among other things, the power to consent to or refuse treatment for T.M. related to her grave disability. Counsel offered no objection to the court's giving the conservator that power. The court then found "by clear and convincing evidence that the evidence produced at the court trial does support the limitation on capacity justifying the power[] for . . . refusing and consenting to treatment related to grave disability . . . ." It scheduled a placement hearing.

T.M. filed a timely notice of appeal from the court's findings and ensuing orders.

II. DISCUSSION

T.M. challenges only the trial court's order denying her the power to consent to or refuse psychotropic medication related to her grave disability. The Public Guardian supports the challenged order and also argues that T.M. has forfeited her claim by failing to object to the court's ruling below.

A. *Forfeiture*

The Public Guardian's forfeiture argument lacks merit. T.M. contends the court's ruling is not supported by sufficient evidence, a claim that cannot be forfeited by the lack of objection below. (*Conservatorship of Walker* (1989)

206 Cal.App.3d 1572, 1577–1578 (*Walker*) [rejecting waiver argument in light of the petitioner's burden of proof]; *In re Brian P.* (2002) 99 Cal.App.4th 616, 623 [a substantial evidence challenge to a ruling is an exception to the general rule that points not urged in the trial court cannot be raised on appeal].) We therefore proceed to the merits.

B. *Legal Standards*

The LPS Act "specifically authorizes the court to designate certain 'disabilities' to which a conservatee may be subject, including decisional disabilities relating to medical treatment. (§ 5357.) These include depriving the conservatee of '[t]he right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled' (§ 5357, [subd.] (d)), and of '[t]he right to refuse or consent to routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled' (§ 5357, subd. (e) . . .). Treatment for a grave disability may include administration of antipsychotic medications. In the absence of a court order imposing these disabilities or an emergency, a conservator may not require a conservatee to receive medical treatment. (§ 5358, subd. (b) . . .).)" (*K.G. v. Meredith* (2012) 204 Cal.App.4th 164, 170 (fns. omitted) (*K.G.*).)

"[T]he right of a competent adult to refuse medical treatment, including the right to refuse antipsychotic drugs, is not only statutorily recognized in the LPS Act, but is grounded as well in both state constitutional and common law rights of privacy and personal autonomy. (*In re Qawi* (2004) 32 Cal.4th 1, 14, 16–19 (*Qawi*).) As *Qawi* explains, the right to refuse treatment, including antipsychotic medication, is not absolute but is limited by countervailing state interests such as the state's *parens patriae* interest ' "in providing care to its citizens who are unable . . . to care for themselves." ' (*Qawi*, *supra*, 32 Cal.4th at p. 15, quoting *Addington v. Texas* (1979) 441 U.S. 418, 426.) Nevertheless, '*parens patriae* may be used only to impose

unwanted medical treatment on an adult when that adult has been adjudged incompetent. [Citation.]' (*Qawi*, at pp. 15–16.) Consequently, an involuntarily committed gravely disabled person retains the right to refuse psychotropic medication in nonemergency situations unless 'the person is determined to be . . . incapable of making rational decisions about his [or her] own medical treatment . . . .' (*Id*. at p. 20.)" (*K.G.*, *supra*, 204 Cal.App.4th at pp. 170–171.)

To assess a patient's capacity to refuse treatment, courts consider the three factors discussed in *Riese v. St. Mary's Hospital & Medical Center* (1987) 209 Cal.App.3d 1303, 1322–1323 (*Riese*). (*Qawi*, *supra*, 32 Cal.4th at pp. 17–18 [endorsing the *Riese* factors].) These factors are "(a) whether the patient is aware of his or her situation (e.g., if the court is satisfied of the existence of psychosis, does the individual acknowledge that condition); (b) whether the patient is able to understand the benefits and the risks of, as well as the alternatives to, the proposed intervention . . . ; and (c) whether the patient is able to understand and to knowingly and intelligently evaluate the information required to be given patients whose informed consent is sought ([Welf. & Inst. Code,] § 5326.2) and otherwise participate in the treatment decision by means of rational thought processes." (*Id*. at p. 18.) If the evidence suggests the patient's health would be "greatly jeopardized" without treatment and the patient shows "absolutely no appreciation of the gravity of his [or her] situation, an inference can be drawn the patient understands neither [the] illness nor the need for treatment." (*Conservatorship of Waltz* (1986) 180 Cal.App.3d 722, 728 [regarding electroconvulsive therapy consent].)

On appeal, "[w]e must determine whether the record contains substantial evidence from which a reasonable trier of fact could have made

the finding" of lack of capacity to refuse medication "by th[e] clear and convincing standard of proof." (*Conservatorship of S.A.* (2020) 57 Cal.App.5th 48, 56 (*S.A.*).) "In . . . reviewing a finding that a fact has been proved by clear and convincing evidence, the question before the appellate court is whether the record as a whole contains substantial evidence from which a reasonable fact finder could have found it highly probable that the fact was true. Consistent with well-established principles governing review for sufficiency of the evidence, in making this assessment the appellate court must view the record in the light most favorable to the prevailing party below and give due deference to how the trier of fact may have evaluated the credibility of witnesses, resolved conflicts in the evidence, and drawn reasonable inferences from the evidence." (*Conservatorship of O.B.* (2020) 9 Cal.5th 989, 995–996.)

C. *Analysis*

T.M. argues there is not substantial evidence to support the trial court's ruling that, by clear and convincing evidence, she should not have the power to consent to or refuse psychotropic medication. She relies largely on the evidence that she has been compliant in taking her medication. But compliance does not demonstrate understanding or the ability to exercise informed consent to or refusal of medication. Applying the substantial evidence standard of review, which includes viewing the record in the light most favorable to the ruling and drawing all reasonable inferences from the evidence, we conclude the court's ruling is supported by substantial evidence.

First of all, the undisputed evidence, as established by Dr. Khan's and T.M.'s testimony, is that T.M., while she understands she has received a chronic schizophrenia diagnosis, neither believes she suffers from schizophrenia nor that it essential for her to take her prescribed medications to mitigate her symptoms. Indeed, she considers her symptoms—such as her

belief that she has extraordinary powers like ESP and converses regularly with celebrities—to be special powers rather than symptoms. T.M. has been able to live independently as an adult only briefly in her life, and Dr. Khan concluded she would stop taking her medication if she lived independently. Her only reason for taking her medication—that she would get in "trouble" if she did not—does not demonstrate any commitment to taking medication because of its importance to her mental health. It shows only a vague awareness of potential adverse consequences if she stops taking her medication.

Second, the court could reasonably infer from T.M.'s long-standing delusional beliefs—such as her beliefs that she was pregnant, could be treated at Stanford, was wealthy, and communicated often with celebrities—as well as from Dr. Khan's and Bove's reports of her disorganized thinking, that T.M. has a tenuous hold on reality, and is not capable of exercising rational judgment in making decisions about treatment, including her medication. This was evident, for example, in her repeated assertions that if discharged she could stay in the 25-bedroom homes, hotels, or board and care facilities she claimed to own. The court's clear and convincing evidence finding that T.M. cannot make rational and informed decisions about her treatment is indicative of its view of the strength of the evidence on this critical point. We do not disagree with that assessment.

Third, even assuming for the sake of argument that T.M. was capable at times of exercising rational and informed judgment, there is also substantial evidence in the record that she repeatedly has suffered from catatonia, leading to an extreme withdrawal into herself, an unresponsiveness to others, and a severe impairment in taking care of her daily needs. Her catatonia, alone, supplies substantial evidence by a clear

and convincing proof standard that T.M. could not consistently maintain a prescribed and necessary medication regimen voluntarily.

T.M. cites three cases in support of her contention that the trial court erred, *Conservatorship of Walker* (1989) 206 Cal.App.3d 1572 (*Walker*), *S.A.*, *supra*, 57 Cal.App.5th 48, and *Conservatorship of D.C.* (2019) 39 Cal.App.5th 487 (*D.C.*). Her arguments regarding these cases are unpersuasive.

T.M. asserts the court in *Walker* held that a psychiatrist's testimony that a conservatee did not think he was ill and did not need treatment was not sufficient to support the establishment of special disabilities. This is an inaccurate summary of *Walker*'s holding. Appellant Walker sought review of an order reappointing his conservator and imposing certain disabilities on him. (*Walker*, *supra*, 207 Cal.App.3d at p. 1574.) The appellate court reversed regarding the special disabilities because "no factual basis was specifically offered to support the disabilities imposed upon [Walker]." (*Ibid*.)

The conservator in *Walker* requested renewal of special disabilities previously imposed for an additional year, but "the evidentiary basis" for that request was "unclear." (*Walker*, *supra*, 207 Cal.App.3d at pp. 1577–1578.) He argued waiver of appellant's claim of evidentiary insufficiency, while "overlook[ing] his burden of producing evidence to support the special disabilities which he sought. He failed to even address the issue during the hearing." (*Id*. at p. 1578.) Here, on the other hand, both the presentation of evidence and the court's explanation of its rulings included a focus on T.M.'s attitude towards her medication, her willingness to take her medication, and her ability to make informed and rational decisions. The Public Guardian's appellate brief also adequately addresses the issue.

In *S.A.*, the court *affirmed* an involuntary medication order because substantial evidence showed S.A. was unable to make informed treatment

decisions. (*S.A.*, *supra*, 57 Cal.App.5th at pp. 56, 58.) T.M. argues that unlike the conservatee there, she, T.M., "had the mental capacity to rationally understand she was diagnosed with schizophrenia, that she needed medication and that if she did not, she would be in trouble." As explained above, we disagree that these aspects of T.M.'s understanding mean the trial court erred.

Finally, in *D.C.*, the appellate court also affirmed the trial court's imposition of an involuntary medication order, noting that the conservatee lacked insight about her medical condition, testified in earlier proceedings that she did not want to be required to take medication, had failed to comply with medication requirements in the past, and was unable to provide her consent to treatment for lice and scabies. (*D.C.*, *supra*, 39 Cal.App.5th at pp. 494–495.)

T.M. argues that contrary to the facts in *D.C.*, she understood her medical diagnosis and need for medication. We do not see that as a material distinction. As we have discussed, rationally "understanding"—as in being able to recite—the nature of her diagnosis and the medication prescribed is far different than T.M. believing in the validity of the diagnosis or that she suffers from symptoms as a result of her mental disorder, and also different from her committing to and being able to maintain a necessary medication regimen on a consistent basis. On this record, there is overwhelming evidence that T.M.'s delusional and disorganized thinking will interfere with her ability to make rational judgments.

In sum, we conclude there is substantial evidence—to the requisite clear and convincing proof standard—that T.M. does not acknowledge her schizophrenia; does not understand the benefits of her psychotropic medication or the risks involved if she fails to take it; and is not able to

understand or to knowingly and intelligently evaluate the information patients must be given so they may independently make medical decisions of the kind at issue here. Even if, going forward, T.M. were trusting enough of her doctors to stay compliant some of the time, her catatonia would prevent her from remaining in compliance consistently. Accordingly, the proof satisfies the *Riese* factors on this record.

III. DISPOSITION

The order appealed from is affirmed.

STREETER, J.

WE CONCUR:

BROWN, P. J.
GOLDMAN, J.