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STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0093

In re: Guardianship of the Person of Roseann Lynn Broome (a.k.a. Bonaparte).

Filed September 28, 2020
Affirmed in part, reversed in part, and remanded
Ross, Judge

Chisago County District Court
File No. 13-PR-19-84

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Solid Oak Financial Services, LLC, Avon, Minnesota (guardian)

Considered and decided by Reyes, Presiding Judge; Ross, Judge; and Frisch, Judge.

UNPUBLISHED OPINION

ROSS, Judge

Roseann Broome is blind because she failed for weeks to seek medical attention for a continual headache and deteriorating vision. Chisago County successfully petitioned the district court to appoint Broome a guardian endowed with full statutory authority. We affirm the district court's holding that Broome is an incapacitated person whose needs cannot be met by means less restrictive than a guardianship. But we reverse in part and remand for the district court to limit the scope of the guardian's authority only to the power necessary to provide for Broome's demonstrated medical-care need.

FACTS

Chisago County petitioned the district court in October 2019 to appoint a guardian to care for Roseann Broome, a 28-year-old woman who lived with her mother until July 2019. The county based its petition on two prior instances in which Broome dialed 9-1-1 because her mother was intoxicated. The petition alleged that the county received vulnerable-adult maltreatment reports after each 9-1-1 call. A physician's statement in support of the guardianship petition asserted that Broome was "recently blinded by idiopathic intracranial hypertension," had "not been getting any medical care [due to a] chaotic social situation," and was "[d]ependent on [her] mother for cooking, cleaning, [and] med[ical] management." It said that Broome's prognosis was "[p]oor [due to a] lack of medical care and supervision."

The district court conducted a hearing on the county's petition. Adult-protection investigator Trent Struck testified for the county, giving the following account.

Broome dialed 9-1-1 in March 2019 because her mother was intoxicated, made suicidal statements, and was having trouble breathing. Broome told emergency responders that she had not herself received medical care for "[10] to 15 years, that she had been ill for the past few months, and [that] her vision had deteriorated in the [previous] two weeks." They took Broome to a hospital, where doctors diagnosed her with idiopathic intracranial hypertension, a condition that causes pressure in the skull, and transferred her to the University of Minnesota Medical Center. Doctors there determined that Broome's condition had blinded her, and they implanted a shunt in her head to relieve pressure. Struck observed that Broome "didn't seem too concerned with the loss of her eyesight."

Doctors discharged Broome to her mother's care. They prescribed medication and anticoagulation therapy to prevent blood clotting. Neither Broome nor her mother drove, so Struck arranged for the county to fund Broome's transportation to and from medical appointments. He also referred her to Minnesota State Services for the Blind and for a long-term services assessment. Struck ended his contact with Broome in May 2019 because Broome had been attending her appointments and following through with services.

But Struck received a second vulnerable-adult maltreatment report in July 2019. The report stated that Broome again dialed 9-1-1 because her mother was intoxicated and making suicidal statements. Police took Broome's mother to the hospital and left Broome with her landlord. Broome told the landlord that her headaches had returned, so he took her to the hospital. Broome told medical staff that she had not intended to seek hospital care for her headaches, that she had run out of her anticoagulation medicine weeks earlier, and that she had been unable to refill her prescription because she lacked transportation. Doctors resumed Broome's medication regimen and treated her to prevent clotting. They discharged her to a nursing facility, where she received occupational therapy, physical therapy, and speech therapy. Staff monitored Broome to ensure she took her medication. The county transferred Broome to an adult foster home in September 2019, where a staff member schedules her dental, vision, and medical appointments and ensures that she attends them.

Struck opined that Broome could not make responsible decisions for herself. He believed that she could not meet her need for medical care because she never sought

medical services or recognized that she was in an unsafe environment. He doubted she could attend appointments without help.

After Struck testified, Broome spoke on her own behalf. She said that she always felt safe with her mother and was "skeptical" about living in the foster home. She wanted to continue living with her mother without the county's help.

The district court appointed a guardian for Broome with authority to the full extent allowed by the guardianship statute. Broome appeals.

D E C I S I O N

Broome challenges the district court's appointment of a guardian and, alternatively, the broad scope of the guardian's authority over matters unrelated to her medical care. A district court may appoint a guardian with limited or extensive authority if it finds by clear and convincing evidence that the proposed ward is incapacitated and that the proposed ward's needs cannot be met by less restrictive means. Minn. Stat. § 524.5-310(a) (2018).[1] The district court has discretion to appoint a guardian, and we will not disturb the appointment unless the district court clearly abused that discretion. *In re Guardianship of Autio*, 747 N.W.2d 600, 603 (Minn. App. 2008). We review a district court's order appointing a guardian to determine "whether the district court's findings are clearly erroneous, giving due regard to the district court's determinations [about] witness credibility." *In re Guardianship of Wells*, 733 N.W.2d 506, 510 (Minn. App. 2007), *review*

[1] Many of the guardianship statutes, Minn. Stat. §§ 524.5-101 to -505 (2018), were amended effective August 1, 2020. 2020 Minn. Laws ch. 86, art. 1, §§ 2–42. The amendments do not affect our analysis except where noted, so we cite the most recent version of the Minnesota Statutes.

denied (Minn. Sept. 18, 2007). A finding is clearly erroneous if the evidence does not support it. *See In re Guardianship of Doyle*, 778 N.W.2d 342, 352 (Minn. App. 2010) (citing *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 102 (Minn. 1999)).

The district court did not clearly err by finding that Broome is an incapacitated person.

We reject Broome's argument that the evidence does not clearly and convincingly establish that she is incapacitated. A district court may appoint a guardian only if the proposed ward is an "incapacitated person." Minn. Stat. § 524.5-310(a)(1). The definition of "incapacitated person" now has two components: (1) "impair[ment] to the extent of lacking sufficient understanding or capacity to make . . . responsible personal decisions"; and (2) "demonstrated deficits in behavior which evidence an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety." 2020 Minn. Laws ch. 86, art 1, § 3 (amending Minn. Stat. § 524.5-102, subd. 6 (2018)).

Broome contends that the district court relied on inadmissible documents outside the record to decide her incapacity. But she objected to none of this evidence, and "[o]bjections to evidentiary rulings are outside the scope of an appeal unless specifically preserved." *In re Guardianship of O'Brien*, 847 N.W.2d 710, 717 (Minn. App. 2014). We decline to address Broome's forfeited evidentiary argument.

We are satisfied that the record includes sufficient evidence to support the finding that Broome is an incapacitated person. The district court relied on Struck's testimony about Broome's medical conditions. This testimony establishes that Broome neglectfully failed to seek medical care despite suffering chronic headaches for weeks and noticing that she was losing her vision. And it establishes that, even after her neglect led to her blindness

followed by surgery to relieve dangerous pressure to her brain, she failed to maintain a sufficient supply of anticlotting medication or to resupply it when none remained. Then she stopped attending related therapy appointments and, even after redeveloping headaches that lasted for weeks, she did not seek medical help or intend to do so. This evidence supports the district court's finding that Broome lacks the capacity to make responsible decisions for herself, particularly regarding medical care. It also establishes certainly that she cannot meet her medical-care needs.

We are not persuaded otherwise by Broome's assertion that "her mother provided her with a safe home, food, and clothing." The assertion has merit, as we discuss below, but it does not undermine the district court's finding of incapacity. A person is incapacitated for purposes of ordering a guardianship if she cannot "meet personal needs for medical care, nutrition, clothing, shelter, *or* safety." Minn. Stat. § 524.5-102, subd. 6 (emphasis added). That Broome's need for safety, shelter, nutrition, and clothing were being met therefore did not prevent the district court from finding incapacity. We are likewise unpersuaded by Broome's arguments that the county presented no evidence of an "intellectual disability diagnosis" and failed to establish a "nexus . . . between her intellectual disability and her decision-making ability." The incapacitated-person statute does not limit guardianships to proposed wards who are intellectually impaired, and the district court's finding of Broome's inability to make decisions was in the context of her decisions and indecision about necessary medical care.

The district court did not clearly err by finding that less restrictive means were unavailable.

Broome argues that the district court erroneously concluded that her needs could not be met by less restrictive means. A district court may appoint a guardian only if the incapacitated person's needs cannot be met by less restrictive means. Minn. Stat. § 524.5-310(a)(2). Less restrictive means are those that do not infringe on the ward's autonomy while providing necessary protection. *In re Guardianship of Kowalski*, 382 N.W.2d 861, 866 (Minn. App. 1986), *review denied* (Minn. Apr. 18, 1986). The record supports the district court's finding that Broome's medical needs could not be met by less restrictive means. Struck testified conclusively so, without objection. He testified that he considered but rejected Broome's mother as an alternative source to meet Broome's medical needs, pointing out that it was under her care that Broome failed to maintain the necessary supply of anticlotting medication and failed to comply with physician instructions. And Struck highlighted that Broome's mother "has a maltreatment determination," which he said "does not allow her to be a guardian at this point." The record therefore defeats Broome's argument, and we hold that the district court did not clearly err by finding that Broome's medical needs cannot be met by means less restrictive than a guardianship.

Remand is appropriate for the district court to limit the guardianship's scope.

The record informs us that the district court granted the guardian more power than necessary. The guardianship statute contains an extensive range of powers that a district court may grant a guardian. *See* Minn. Stat. § 524.5-313(c) (2018). But it limits the district

court's authority, allowing it to "grant to a guardian only those powers necessary to provide for the demonstrated needs" of the ward. *Id.* (b). Of the statutorily identified "needs," the only one "demonstrated" by the evidence here was Broome's need for medical care. Rather than confine the guardian's powers to that need, the district court granted broad powers over all areas based on its conclusive declaration that a "limited guardianship is not appropriate because [Broome] requires assistance in exercising all of these rights and powers."

Broome argues that the county offered no evidence establishing need in any area other than medical care, and the record concurs. The district court's order also does not include any rationale for its implied finding that Broome's additional needs for nutrition, clothing, shelter, and safety were unmet in her mother's home. The evidence does indicate that Broome's mother was periodically intoxicated, but it does not suggest that Broome lacked nutrition, clothing, shelter, or safety because of it. Based on this record and the district court's supported findings, we agree with Broome's contention that "the bare minimum necessary to care for [her] is the appointment of a limited guardian with the powers and duties related to her medical care." The district court acted beyond its statutory discretion by ordering a guardianship with powers that exceeded those necessary to meet the need demonstrated by the evidence or supported by analysis. We therefore reverse the appointment of an unlimited guardianship and remand for the district court to enter an order that tailors the guardian's authority under Minnesota Statutes section 524.5-313(c) in a fashion supported by Broome's demonstrated medical-care need.

Affirmed in part, reversed in part, and remanded.