

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1063**

In re the Guardianship of: Robert J. Stutelberg.

**Filed August 8, 2022
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-GC-PR-13-598

Stacy L. Kabele, Kabele Law Firm, LLC, Eden Prairie, Minnesota (for appellant Robert Stutelberg)

Michael Patrick Stutelberg, Tomahawk, Wisconsin (pro se respondent)

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Robert Stutelberg challenges the district court’s denial of his petition to terminate his guardianship or, in the alternative, to replace his current guardian—his brother, respondent Michael Stutelberg—with a professional guardian.¹ We affirm.

¹ Because they share the same last name, we refer to the parties by their first names throughout this opinion.

FACTS

Robert is a 54-year-old man who is diagnosed with paranoid schizophrenia. He has been subject to guardianship since 2008—an emergency guardianship beginning in December 2008, followed by a permanent guardianship in 2009. His initial guardianship was supported by the expert opinion of a board-certified psychiatrist, who noted that Robert “has a vast unsystematized delusional system that divides humankind into two groups” and that this delusional system “renders him unable to care for himself entirely, and . . . irreversibly incapable of managing his own affairs and responsibilities.”

Roberts’s mother was appointed as his permanent guardian in March 2011. His mother eventually became ill, and his brother Michael was appointed successor guardian on February 13, 2017.

Robert filed a petition to terminate his guardianship in January 2021 and, in March 2021, filed an amended petition to remove Michael as guardian and to permit Robert to choose a professional guardian, subject to the district court’s approval, to serve as successor guardian. The district court held a trial via videoconference, at which both Robert and Michael testified. Michael submitted as an exhibit a written statement describing his role as his brother’s guardian and his thoughts on why the guardianship should continue. Robert submitted a number of exhibits, including a “Manifesto” that he had written and his written response to Michael’s statement.

Following the trial, the district court denied Robert’s amended petition. The district court found that clear and convincing evidence established that Robert continues to be

incapacitated and is unable to meet his own personal needs. The district court also determined that it was appropriate for Michael to continue to serve as guardian.

Robert appeals.

DECISION

Appellate courts review decisions regarding terminating or modifying a guardianship for an abuse of discretion. *See In re Conservatorship of Brady*, 607 N.W.2d 781, 784 (Minn. 2000). A reviewing court will not set aside factual findings unless clearly erroneous, “giving due regard” to the district court’s determinations regarding the credibility of witnesses. *See In re Guardianship of Pates*, 823 N.W.2d 881, 885 (Minn. App. 2012) (quotation omitted). The district court abuses its discretion when it improperly applies the law. *In re Guardianship of DeYoung*, 801 N.W.2d 211, 216 (Minn. App. 2011).

I. The record supports the district court’s denial of the petition to terminate the guardianship.

Robert argues that the district court erred by denying his petition to terminate the guardianship because the evidence establishes that he can exercise all powers of guardianship without the assistance or protection of a guardian.

A district court may appoint a guardian if it finds by clear and convincing evidence that the person for whom a guardianship is sought is an incapacitated person and their needs cannot be met by less restrictive means. Minn. Stat. § 524.5-310(a) (2020). After a guardianship is established, a person subject to guardianship may petition for termination of the guardianship on the ground that “the person subject to guardianship no longer needs the assistance or protection of a guardian.” Minn. Stat. § 524.5-317(b) (2020). To support

termination, the petitioner must present evidence establishing a “prima facie case for termination.” *Id.* (c) (2020). If the petitioner establishes a prima facie case for termination, the district court must terminate the guardianship unless it is proved that continuation of the guardianship is in the best interest of the person subject to guardianship. *Id.*

As an initial matter, we note that Robert does not frame his argument in terms of whether he established a prima facie case for termination or whether, if he did, continuation of the guardianship was in his best interest. We also observe that the district court did not frame its analysis in those terms either. Nevertheless, we conclude that the district court’s factual finding that Robert continues to be an incapacitated person justifies denial of Robert’s petition to terminate.

But Robert argues that the district court’s factual finding that he continued to need a guardianship was erroneous, asserting that he credibly testified about his ability to independently exercise each of the individual powers of guardianship. It is true that Robert testified regarding his ability to meet his needs and that the district court found that his testimony demonstrated that he had improved since the appointment of the guardian. But the district court also found that clear and convincing evidence established that Robert lacks sufficient understanding or capacity to make personal decisions and is unable to meet personal needs for medical care, nutrition, clothing, shelter, or safety. This finding is supported by the record.

The record includes Michael’s testimony, which the district court found credible, Robert’s testimony, and exhibits submitted by Michael and Robert. Robert testified that he suffers from major depression, schizoaffective disorder, and paranoid schizophrenia.

Michael testified regarding Robert's inability to manage his affairs because of his mental illness. For example, Michael described concerns regarding medical care that have arisen from Robert's scheduling medical appointments with numerous doctors and hiding his appointments from his group home and from Michael. Michael also testified about how upset Robert became when Robert's group home staff and Michael rescheduled Robert's eye-surgery appointment because another resident was diagnosed with COVID-19 and Robert had been exposed. Michael testified that, without his intervention, Robert would have gone to the surgery without taking any precautions and without informing others that he had been exposed to COVID-19.

Michael also testified regarding Robert's housing needs. He explained that, while he wants Robert to have as much freedom as he can handle in housing matters and he does not oppose Robert's wish to move to a more independent living situation, Robert does not understand the costs of independent living and his beliefs limit his placement options. These beliefs are reflected in the "Manifesto" that Robert submitted as an exhibit. In it, Robert explains that the world is divided into two groups—Christian Reducing Evolutionists and Satanic Overpopulation Creationists—and that war is inevitable between these two groups. Michael testified that Robert is dismissive of persons whom he believes fall in the latter category and that he uses their status within that category as justification for not cooperating with them.

Robert testified on cross-examination that he continues to believe everything in his manifesto to be true. Robert also testified that he feels grief because Michael is not a member of the Christian Reducing Evolutionists and that he wants Michael, whom he

loves, to “sign on” to that group so Michael will come out of the war between the two groups in one piece.

On this record, the district court did not clearly err by finding that Robert is unable to make personal decisions and meet his own personal needs. Based on this finding, the district court did not abuse its discretion by denying Robert’s petition to terminate his guardianship.

II. The record supports the district court’s denial of the request to replace Michael as guardian.

Robert next argues that, even if the district court did not err in its decision to continue his guardianship, the district court erred by denying his request to remove Michael as guardian and to let him choose a professional guardian, subject to the district court’s approval. A district court has broad discretion regarding whether to modify a guardianship, and “may make any other order” or “may grant other appropriate relief” that “is in the best interests of the person subject to guardianship.” Minn. Stat. § 524.5-317(b). Robert asserts that the district court should have granted his request because letting him choose a professional guardian would not result in any harm to him since his choice would be subject to the district court’s approval.

The district court decided that it was appropriate for Michael to continue to serve as guardian. To support his request in the district court, Robert testified that Michael denied him emergency medical services by canceling and rescheduling his eye surgery and that Michael denied him a change in his housing. In its decision, the district court recognized Robert’s testimony, but it also explained that it found Michael’s testimony “to be

persuasive when reviewing the evidence as a whole.” The district court cited Michael’s testimony regarding the health-related reason for rescheduling Robert’s eye surgery and Michael’s testimony regarding his support for a more independent living situation for Robert as long as accommodating Robert’s preferred housing criteria (such as no security cameras) does not sacrifice the quality of the living environment. The district court found Michael’s testimony credible, and we defer to that finding. *See Pates*, 823 N.W.2d at 887-88. We discern no abuse of discretion in the district court’s decision to deny Robert’s request to replace Michael as guardian.

Affirmed.