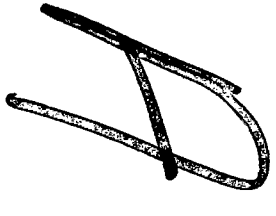

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

Conservatorship of the Person of JOHN D. II.	
DEBORA D., Petitioner and Appellant, v. JOHN D., Petitioner and Respondent, JOHN D. II, etc., Objectors and Respondents.	G060634 (Super. Ct. No. 30-2019-01104251) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Aaron W. Heisler, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed. Appellant's motion to augment denied.

Debora D., in pro. per., for Petitioner and Appellant.

No appearance for Petitioner and Respondent.

No appearance for Objectors and Respondents John D. II, etc.

* * *

Debora D. and John D.[1] are the parents of John D. II (J.J.), a young adult who has severe autism and is unable to provide for his own medical, educational, and welfare needs. After a significant period of disagreement regarding J.J.'s education, both Debora and John filed cross-petitions to be appointed as J.J.'s conservator, with the ability to make educational decisions on his behalf. The court granted John's petition, appointing John and Debora as co-conservators, but giving John exclusive power to make educational decisions.

Debora appealed from that judgment (*Conservatorship of John D. II* (Aug. 25, 2022, G059954) [nonpub. opn.] (*Conservatorship of John D.*)), and she refused to cooperate with the issuance of the letters of conservatorship while the appeal was pending. Ultimately, the trial court exercised its authority to appoint John to act as J.J.'s temporary limited conservator, with power to make educational decisions, until the appeal was finally resolved. Debora again appealed.

As with her earlier appeal, Debora's opening brief is difficult to decipher. She seems to argue that no one can deprive her of her right to make decisions regarding J.J.'s education. We disagree as that position ignores John's equal status as J.J.'s parent. We therefore affirm the judgment. We also deny Debora's motion to augment the record

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[1] We use the parties' first names for purposes of clarity; we intend no disrespect.

with a copy of the judgment dissolving her marriage with John, which has no apparent relevance to the order under review.[2]

FACTS

In May of 2021, following the judgment in *Conservatorship of John D.*, *supra*, G059954, John sought an ex parte order to remove Debora as a co-limited conservator due to her refusal to sign the letters of conservatorship. At that time, Debora's earlier appeal from the judgment had been dismissed, but at John's request, the court ordered the matter continued to a date after the remittitur was anticipated to issue from this court.

The matter was scheduled for hearing again on June 15, 2021. By that time, the earlier appeal had been reinstated and Debora appeared at the hearing. Rather than addressing the issue of signing the letters of conservatorship, Debora renewed her objection to the participation of a guardian ad litem (GAL) to represent J.J. in connection with the conservatorship proceeding. Debora expressed her conviction that any "third party" involvement on J.J.'s behalf amounts to a relinquishment of her rights as a parent. Debora reminded the court that an appeal was pending and implied she would not cooperate with the conservatorship until that appeal was resolved. Counsel for the GAL confirmed the appeal was pending but indicated she did not believe a stay was in effect.

After a lengthy discussion, the court continued the review hearing until August 10, 2021, stating that the hearing would take place unless the letters of conservatorship had issued at least five court days before that date. The court also issued an order to show cause (OSC) for that same date to address why it should not either suspend one of the co-conservators and allow the other to seek the issuance of letters as

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[2] Debora appears to be under the impression that because she and John agreed to the custody arrangement set forth in their dissolution decree, no court can modify it without her permission. If that is her belief, she is mistaken.

the sole limited conservator, or alternatively why it should not issue an order under Probate Code section 1310, subdivision (b), that would allow for the appointment of fiduciaries pending the appeal.

The court explained its thinking: "Now I know I have two parties who are representing themselves in here, so I want to make very clear what that means: an order to show cause means I am going or I'm thinking about doing something at the next hearing, and I want to give everybody a chance to weigh in. What I am thinking about doing in light of the appeal is suspend one of you so that only Mr. or Ms. D[.] would be limited conservator while the appeal is pending, or I'm considering issuing an order under Probate Code [section] 1310, subdivision (b), that permits this court to instruct fiduciaries to exercise certain powers even while an appeal is pending. [¶] . . . If [you] want to file and serve any points and authorities before the order to show cause, I need you to file and serve those documents at least one week in advance."

On August 10, Debora claimed the lengthy document she filed in connection with the OSC had been mistakenly truncated by Federal Express. The court listed the matters that were currently before the court; it noted the letters of conservatorship had not yet been filed due to Debora's refusal to do so while her appeal was pending.

The court then asked if any party believed there were other issues to be addressed; Debora expressed her belief the first issue to be resolved should be the propriety of the GAL appointment, which she viewed as a "violation of due process." The court indicated it was taking the OSC under submission, but gave Debora additional time to file a new document attaching the missing pages filed in response to the OSC. It said it would not make its ruling until after it had reviewed those documents, stating if a further hearing was necessary, the court would reset the OSC for a later date.

The court issued its order on August 23. It noted Debora's appeal challenging the conservatorship judgment was pending, and concluded the appeal had

automatically stayed the judgment and therefore neither party was a limited conservator with powers that might be suspended. Consequently, the court's OSC on that point was moot.

The court further explained that, notwithstanding the pending appeal, it retained the power to appoint a temporary conservator of the person of J.J. for the purpose of preventing injury or loss to him. The court concluded John, rather than Debora, was the proper party to be appointed, noting with concern Debora's repeated threats to use her custody of J.J. as a means of depriving him of any educational opportunities if she were not in charge of them.

The court consequently appointed John as temporary conservator of J.J. with the power to make educational decisions. At the same time, the court observed that "[i]f [Debora] attempts to use her current custody of [J.J.] to block [John's] exercise of educational decision-making powers, then [John] must have authority to end that custody by changing [J.J.'s] residence."

On August 25, 2022, we issued our opinion affirming the conservatorship judgment in *Conservatorship of John D., supra*, G059954.

DISCUSSION

1. *Standard of Review*

It is well settled that a judgment or order of the trial court is presumed to be correct; the appellant has the burden to prove error by presenting legal authority to support each argument made, along with an analysis of the pertinent facts supported by citations to the appellate record. (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784–785; *Boyle v. CertainTeed Corp.* (2006) 137 Cal.App.4th 645, 649 [on appeal "the party asserting trial court error may not . . . rest on the bare assertion of error but must present argument and legal authority on each point raised"].) If the appellant fails to carry this burden, her argument may be deemed forfeited.

"[T]he appellant must present each point separately in the opening brief under an appropriate heading, showing the nature of the question to be presented and the point to be made; otherwise, the point will be forfeited." (*Keyes v. Bowen* (2010) 189 Cal.App.4th 647, 656; Cal. Rules of Court, rule 8.204(a)(1)(B).)

Debora has been reminded of these rules in a prior opinion of this court, which arose out of her dispute over the custody of a different son with that son's father. "[N]one of mother's ostensible legal arguments are supported by citation to authority, nor are they placed under discrete headings setting out the issues, as required by California Rules of Court, rule 8.204(a)(1)(B). When a party fails to cite proper legal authority to support his or her legal contentions, this court need not consider them. [Citations.] [¶] In fact, we could consider the entire appeal forfeited for mother's failure to follow the rules of court. [Citation.] Her decision to proceed in propria persona does not relieve her of the obligation to follow those rules." (*D.M. v. D.D.* (June 23, 2017, G051825 [nonpub. opn.].)

2. *Debora's Argument and Contentions*

Despite our prior warning, Debora's opening brief in this appeal fails to comply with well-established appellate rules. The "Argument" section of Debora's opening brief contains a single paragraph; it lacks any headings, analysis, or authorities. It states in full: "The opposing party believes the State Agencies are the decision maker for the proposed Conservatee and does whatever the agents of the State tell him to do, relinquishing Conservatee's Rights and Protections. The Federal Law and Constitutional Law is very clear, Los Alamitos School District owes JJ compensatory damages for failing to provide JJ an Education under the Protections and Federal Procedural Safeguards and Independent Educational Evaluations at the public cost. The opposing party believes the School District, Doctors, Regional Center, and an Attorney hired by the State as the Decision Makers for our Son as he conveyed to the court, which was/is the matter for trial."

That is not a legal argument. It bears no clear relationship to the court's order which is the subject of this appeal, nor is it supported by any factual or legal analysis.

Another section of Debora's brief, titled "Issues on Appeal," lists over 60 bullet-pointed assertions and questions. Some of the assertions are sentence fragments. Other assertions are made without context.

The lengthy series of questions Debora poses appear to identify issues she would like this court to investigate and analyze on its own (e.g., "Did the order violate Federal IDEA Protections - Procedural Safeguards for Appellant and proposed Conservatee?" "Did the court make impossible orders that would advance the intent and agenda to absolve Monetary retribution, compensatory education, and the exploitation of unlawful business practices posing harm to Conservatee and Appellant and Special Needs Family and Students?" and "Did Paul Jacobson act in malfeasance in representation of Appellant? - Transcript - October 16th, 2020").

None of these abstract concerns is supported by factual or legal analysis; thus, none are reviewable on appeal. (*Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545 ["We are not required to search the record to ascertain whether it contains support for [appellant's] contentions"]; *Dills v. Redwoods Associates, Ltd.* (1994) 28 Cal.App.4th 888, 890, fn. 1 ["We will not develop the appellants' arguments for them"].)

Many of Debora's apparent concerns predate the conservatorship trial and judgment (e.g., her suggestion of legal malpractice by her own attorney dating from October 2020, her continuing complaints about the GAL appointed to represent J.J. in the conservatorship proceeding, and her assertion that she did not receive proper notice of the conservatorship trial). Those complaints had to be addressed, if at all, in Debora's earlier appeal. Claims of error in the rendering of a judgment cannot be addressed in a subsequent appeal from a postjudgment order. (See *SCC Acquisitions, Inc. v. Superior*

Court (2015) 243 Cal.App.4th 741, 748 [for a postjudgment order to be appealable, it must raise issues that are "different from those arising out of the appeal from the judgment"].)

Ultimately, Debora asserts that she—and only she—has the right to make decisions affecting J.J.'s education. She repeats the threat she made in the trial court, stating that if she is not allowed to make decisions about J.J.'s education, she "will keep Conservatee home until resolved and/or until Conservatee falls under the service responsibility of Regional Center Day Programming at age 21."

We believe, as did the trial court, that Debora's intransigence is borne of her love for her son. But her refusal to work with anyone else to make decisions about J.J.'s education, or to cooperate in establishing the conservatorship previously ordered because it deprived her of the right to control J.J.'s education, provided substantial justification for the court's order which is at issue in this appeal.

DISPOSITION

The judgment is affirmed. As Debora is the only party appearing in this appeal, no costs are awarded.

GOETHALS, J.

WE CONCUR:

O'LEARY, P. J.

BEDSWORTH, J.

Court of Appeal, Fourth Appellate District, Division Three - No. G060634

S278414

IN THE SUPREME COURT OF CALIFORNIA

En Banc

Conservatorship of the Person of JOHN D. II.

DEBORA D., Petitioner and Appellant,

v.

JOHN D., Petitioner and Respondent;

JOHN D. II, etc., Objectors and Respondents.

The petition for review and application for stay are denied.

GUERRERO

Chief Justice

Additional material from this filing is available in the Clerk's Office.