



Mental Health Project

1717 E. Vista Chino A7-384 • Palm Springs, CA 92262
(818) 230-5156 • www.spectruminstitute.org

December 17, 2020

California Court of Appeal
Fourth District, Division Two
3389 12th Street
Riverside, CA 92501

Re: Request for Publication Under Rule 8.1120
Conservatorship of Navarrete, No. E070210 (Dec. 4, 2020)

To the Court:

On December 15, 2020, the Disability and Guardianship Project of Spectrum Institute requested this Court to issue an order certifying for publication its opinion in the above-entitled case.

The Mental Health Project joins in that request but suggests that, on its own motion, the Court should modify the opinion to delete “an Incompetent Person, etc.” from the caption of the opinion.

This non-substantive change in language should be made regardless of whether or not the request for publication is granted. As explained below, such pejorative language should not be used to label a person with cerebral palsy or any other developmental disability. Although the opinion, at this juncture, is “not to be published in the official reports,” it will nonetheless be read by countless attorneys and judges who use legal research programs such as Casetext, Westlaw, or Lexis/Nexis.

It is unnecessary to use terms such as “an incapacitated person” in an appellate opinion. The Legislature abandoned that term when it replaced the adult guardianship system with a conservatorship system in 1957. (“Better Protection for Our Most Vulnerable Adults: Is It Time to Reform the Conservatorship Process?” Report of the Assembly Judiciary Committee (2005)) Judges are becoming more conscious of the labels they use for people with disabilities. (*T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229, 1246, fn. 10; *People v. Leon* (2020) 8 Cal.5th 831, 841, fn.6.)

The terminology “an Incompetent Person, etc.” could be replaced with the words “a Conservatee.” Allowing a pejorative term to remain in the opinion is contrary to public policy. (Assembly Bill 242 on mandatory judicial education on implicit bias training, approved Oct. 2, 2020; Amendment to Rule 10.469 adopted by the Judicial Council on Sept. 25, 2020.) The substance of the opinion is respectful of the rights of people with disabilities. The caption should be consistent with the Court’s intent.

Respectfully submitted:

Thomas F. Coleman
Legal Director
Spectrum Institute
(State Bar No. 56767)



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CERTIFIED FOR PUBLICATION
COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

Conservatorship of the Person and
Estate of ANNA NAVARRETE.

E070210

(Super.Ct.No. RIP1600752)

RODOLFO NAVARRETE,
Petitioner and Respondent,
v.
ANNA NAVARRETE,
Objector and Appellant.

The County of Riverside

ORDER MODIFYING OPINION
AND GRANTING PUBLICATION

[NO CHANGE IN JUDGMENT]

THE COURT

We GRANT the request to publish the opinion filed in this matter, which meets the standard for publication in California Rules of Court, rule 8.1105(c). The court ORDERS the opinion filed on December 4, 2020 certified for publication.

On our own motion, the Court ORDERS the opinion modified by removing the words “an Incompetent Person, etc.” from the caption to conform with current law and usage. (See, e.g., Prob. Code, §§ 1801, subd. (a) [The trial court may appoint a conservator for someone “who is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter”]; 2351, subd. (a) [“the guardian or conservator . . . has the care, custody, and control of, and has charge of the education of, the ward or conservatee”].)

Except for the modification, which doesn’t affect the judgment, the opinion is unchanged.

CERTIFIED FOR PUBLICATION

SLOUGH

J.

We concur:

RAMIREZ

P. J.

MENETREZ

J.

cc: See attached list

MAILING LIST FOR CASE: E070210

Conservatorship of the Person and Estate of Anna Navarrete; Rodolfo Navarrete v. Anna Navarrete

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