Disability and Guardianship Project

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

November 19, 2019

Mr. Jorge Navarrete
ADA Coordinator
California Supreme Court
350 McAllister Street
San Francisco, CA 94102

Re: Dubro et al. v. Dubro et al., Court of Appeal No. A157185
Ex-parte Notice of the Need for an ADA Accommodation for Katherine Dubro

Dear Mr. Navarrete:

I am writing to you in your role as an ADA coordinator for the California Supreme Court. Your name was listed as such in a directory of ADA coordinators published by the Judicial Council.

This case was brought to my attention on October 26, 2019 by a colleague who knew that Spectrum Institute advocates for access to justice for litigants in conservatorship proceedings. I learned that Katherine Dubro has dementia which impairs her ability to have effective communication and meaningful participation in legal proceedings without the assistance of counsel. Knowing that she has such a disability, the superior court nonetheless failed to provide Ms. Dubro with an attorney in legal proceedings which resulted in the order now under review. This appeal focuses on a dispute over the use of Ms. Dubro's assets to pay for various fees.

I wrote to the ADA coordinator of the First District Court of Appeal to alert the court that Ms. Dubro's dementia would impair her ability to participate in the appeal as a pro per litigant. I reminded the coordinator of the court's duty under Title II of the Americans with Disabilities Act to provide accommodations to litigants with known disabilities that impair communications and participation in an appellate proceeding. I highlighted the fact that Ms. Dubro was so invisible to the Court of Appeal that she was not even mentioned on the court's website as a party to the appeal.

In response to my notice, the Court of Appeal listed Ms. Dubro on the "parties and attorneys" webpage for the case. However, it did not provide her an accommodation to ensure that she would have effective communication and meaningful participation in the appellate proceeding. The only reasonable accommodation appropriate for these purposes would be the appointment of counsel. To this day, Ms. Dubro is not represented by counsel on appeal. It appears likely that the appellate proceeding will continue without Ms. Dubro being provided counsel as an accommodation to ensure that she will have access to justice in this appeal.

If Ms. Dubro did not have a disabling mental condition, she could petition the Supreme Court for a writ of mandate to direct the Court of Appeal to appoint counsel or she could petition the Court for a writ of prohibition asking that the Court of Appeal be restrained from processing the appeal until it provides her an attorney as an ADA accommodation. Ms. Dubro is caught in an ADA accommodation bind. She lacks an attorney to petition for a writ to effectuate her ADA rights.

Writ proceedings are services the Supreme Court provides to litigants who allege their rights are being violated by an inferior court. Unfortunately, due to her disability, Ms. Dubro is not able to access these services of the Supreme Court. Ironically, if the Court of Appeal had provided an attorney as an ADA accommodation as it should have, Ms. Dubro would not need to access such writ proceedings in the Supreme Court.

Spectrum Institute is not representing Ms. Dubro in the Court of Appeal or before this Court. Our organization is performing a civic duty out of a sense of moral obligation to bring to your attention as an ADA coordinator the fact that a senior with dementia cannot access the services of the Supreme Court. This is not a request for an accommodation. It is a notice to the Supreme Court that it should act on its own motion to assess the need to provide this litigant with an accommodation.

All courts in California, whether at the trial or appellate level, have a *sua sponte* duty to provide accommodations when they learn that a litigant has a disability that, without accommodation, will prevent effective communication or meaningful participation in court proceedings. It is the knowledge of such a disabling condition, with or without a request, that triggers the duty of courts to take pro-active measures to provide appropriate accommodations. In a case such as this, the only effective accommodation would be the appointment of appellate counsel.

Since Ms. Dubro cannot access writ proceedings in the Supreme Court to remedy this ADA violation by the Court of Appeal, the Supreme Court can provide an alternative procedure to effectively remedy this problem. Under Rule 8.552 of the Rules of Court, the Supreme Court may, on its own motion, transfer the case from the Court of Appeal to itself.

The failure of trial and appellate courts to provide counsel to assist litigants with cognitive disabilities is an issue of great public importance that the Supreme Court should promptly resolve. After such a transfer, this Court could appoint counsel and review the appeal itself on the merits, or it could appoint counsel and remand the matter back to the Court of Appeal to process the appeal. Either approach would be an appropriate accommodation to an elderly woman with dementia who is being denied access to appellate justice because of her disability.

Appointing counsel as an ADA accommodation to ensure access to appellate justice for conservatees with cognitive disabilities is not unprecedented. On two occasions in the recent past the Second District Court of Appeal has done just that. In *Conservatorship of O.B.* (No. B290805), counsel was appointed for a conservatee who was an appellant. In *Conservatorship of A.E.* (B297092), counsel was appointed for a conservatee who was first designated as an overview party and then renamed as a respondent. In the former case, Spectrum Institute submitted a commentary to the California Appellate Project which then sent it to staff at the Second District. In the latter case, counsel was appointed after we wrote to the ADA coordinator regarding the court's duties under Title II of the ADA and Government Code Section 11135 which incorporates the ADA into state law.

The failure of courts to appoint counsel for proposed conservatees was brought to the attention of the Supreme Court in an *amicus curiae* brief we recently filed. (S254838). Contributing to this problem is Rule 1.100 and materials published by the Judicial Council that incorrectly declare that ADA accommodations need not be provided without a request. This is contrary to federal law.

California courts do have a duty to provide ADA accommodations, *sua sponte*, to litigants with known disabilities when those disabilities may impair effective communication or meaningful participation in legal proceedings. A written report on this subject was recently submitted to the Judicial Council. It can be found online at: http://spectruminstitute.org/ada-compliance.pdf

Whether a disabled litigant in a conservatorship appeal is designated as appellant, respondent, or overview party should not matter. When an appellate court knows that a party has a disability that precludes self-representation, it has a duty to provide an accommodation in the form of appointed counsel. This duty is not dependent on a request for an accommodation being made by the disabled litigant. Requiring a request from those who cannot do so would preclude an entire class of disabled litigants from the protections of the ADA. Federal law requires a court to provide an appropriate accommodation on its own motion under circumstances such as this.

Please bring this notice to the attention of the Supreme Court as a reminder of its obligations under Title II of the ADA. It should consider using Rule 8.552 as a vehicle for providing the necessary accommodation to Ms. Dubro in order to ensure that her rights under the ADA are implemented.

Having represented the appellant in *People v. Simon* (1995) 9 Cal.4th 493, I am quite familiar with Rule 8.552 (formerly rule 27.5). In that case, the Supreme Court transferred the appeal to itself prior to a decision in the Court of Appeal. (*Simon, supra*, fn. 2.) I was appointed to represent Mr. Simon in the Supreme Court after the order transferring the case was issued.

While the use of Rule 8.552 is unusual, it is not unprecedented. The need to do so in Ms. Dubro's case is more urgent and important than it was in the Simon case where the appellant was represented by counsel in the Court of Appeal and also had the benefit of counsel in the trial court. Here, Ms. Dubro has been without counsel from the moment the petition for conservatorship was filed against her, throughout the trial court proceedings, and now in the appellate proceedings.

Transfer of the case to the Supreme Court under Rule 8.552, appointment of counsel by this Court as an ADA accommodation, and either deciding the appeal on the merits or transferring it back to the Court of Appeal to process the appeal with Ms. Dubro properly represented, would set a precedent getting the attention of trial and appellate courts throughout the state. It would also help resolve a conflict between the Second District which does appoint counsel for conservatees and the First District which does not. This conflict raises serious constitutional questions regarding the requirement that laws of a general nature operate uniformly throughout the state and the right of conservatees to receive equal protection of the law no matter where in the state they may reside.

Respectfully,

Thomas F. Coleman
Legal Director
tomcoleman@spectruminstitute.org

p.s. ADA accommodations may be granted *ex-parte* as they are not adversarial in nature. Such accommodations do not have an adverse effect on the rights of other parties to the case. However, this Court could issue an order directing the Court of Appeal to show cause why this Court should not invoke Rule 8.552 on its own motion as an ADA accommodation.

cc: Ms. Beth Robbins, ADA coordinator, First District Court of Appeal

Reference Materials Attached

Appellate Courts Case Information

1st Appellate District

Change court

Court data last updated: 11/19/2019 08:15 AM

Parties and Attorneys

Dubro et al. v. Dubro et al.
Division 5
Case Number A157185

Party	Attorney
Dennis Dubro : Petitioner and Respondent 3984 Washington Blvd. #217 Fremont, CA 94538	Pro Per
Leo Bautista : Petitioner and Respondent	Daniel A. Presher Law Offices of Daniel A. Presher 303 West Joaquin Avenue - Suite 140 San Leandro, CA 94577
Sanford H. Margolin : Other	
Robert Dubro : Objector and Appellant	Collette Angela DeLaHousaye De La Housaye & Associates, ALC 1211 Newell Avenue, Suite 210 Walnut Creek, CA 94596 Tara Christine Dudum De La Housaye & Associates, ALC 155 Sansome St Ste 620 San Francisco, CA 94104-3653 Evan Craig Nelson Law Office of Evan C. Nelson 18 Crawford Court Walnut Creek, CA 94595
Michael Dubro : Objector and Appellant	
Maureen Shroyer : Objector and Appellant	
Mary Jeanne Howard : Objector and Appellant	
Katherine M. Dubro : Overview party	

Any program or activity that is funded by the state shall meet the protections and prohibitions of Title II of the ADA and federal rules and regulations implementing the ADA. (Cal. Gvt. Code Sec. 11135)

A public entity must offer accommodations for *known* physical or mental limitations. (Title II Technical Assistance Manual of DOJ)

Even without a request, an entity has an obligation to provide an accommodation when it knows or reasonably should know that a person has a disability and needs a modification. (DOJ Guidance Memo to Criminal Justice Agencies, January 2017)

Some people with disabilities are not able to make an ADA accommodation request. A public entity's duty to look into and provide accommodations may be triggered when the need for accommodation is obvious. (*Updike v. Multnomah County* (9th Cir 2017) 930 F.3d 939)

"If no request for an accommodation is made, the court need not provide one."

– *Judicial Council* 2017 Brochure *

VS

It is the knowledge of a disability and the need for accommodation that gives rise to a legal duty, not a request. (*Pierce v. District of Columbia* (D.D.C. 2015) 128 F.Supp.3d 250)

A request for accommodation is not necessary if a public entity has knowledge that a person has a disability that may require an accommodation in order to participate fully in the services. Sometimes the disability and need are obvious. (*Robertson v. Las Animas* (10th Cir. 2007) 500 F.3d 1185)

The failure to expressly request an accommodation is not fatal to an ADA claim where an entity otherwise had knowledge of an individual's disability and needs but took no action. (*A.G. v. Paradise Valley* (9th Cir. 2016) 815 F.3d 1195)

The import of the ADA is that a covered entity should provide an accommodation for *known* disabilities. A request is one way, but not the only way, an entity gains such knowledge. To require a request from those who are unable to make a request would eliminate an entire class of disabled persons from the protection of the ADA. (*Brady v. Walmart* (2nd Cir. 2008) 531 F.3d 127)

* Rule 1.100 and all Judicial Council educational materials are erroneously premised on the need for a request.

Disability and Guardianship Project

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

October 29, 2019

Ms. Beth Robbins
Assistant Clerk / Executive Officer
ADA Coordinator
Court of Appeal – First Appellate District
350 McAllister Street
San Francisco, CA 94102

Re: Dubro et al. v. Dubro et al., Court of Appeal No. A157185
Notice of the need for an ADA accommodation for Katherine Dubro

Dear Ms. Robbins:

I am writing to you in your role as an ADA coordinator for the First District Court of Appeal.

The above-entitled case came to my attention on October 26 when a colleague sent me a copy of Appellant's Opening Brief. This colleague knew that Spectrum Institute advocates for the right to counsel for conservatees and propose conservatees in proceedings that affect their lives. This appeal is such a proceeding.

The real party in interest in this appeal is Katherine M. Dubro, an elderly woman who has been placed into a conservatorship of her person and her estate. This appeal involves the payment of fees from Ms. Dubro's estate.

After reading the opening brief and conferring with counsel for appellant, I have learned that Ms. Dubro was not represented by an attorney during the proceedings prior to the entry of the order of conservatorship. Similarly, she was not represented by counsel in the post-judgment proceedings involving a dispute over the payment of fees from her estate. Despite knowing that her dementia prevented Ms. Dubro from representing herself, the trial court failed to appoint counsel to protect her legal rights and financial interests throughout the entirety of the proceedings below.

Some of Ms. Dubro's children have filed the current appeal. Appellant's opening brief argues that the order below should be reversed because of the failure of the court to appoint counsel to represent Ms. Dubro during the fee dispute. Although appellants are trying to protect the rights of their mother, they may be precluded from doing so because, at this juncture, Ms. Dubro is not represented by appellate counsel. As a result, the violation of Ms. Dubro's right to counsel in the trial court cannot be raised directly on her behalf through her own appellate counsel. This court, therefore, might not reach the merits of the appeal due to a lack of standing by appellants to argue vicariously for their mother. (Conservatorship of Gregory D. (2013) 214 Cal.App.4th 62.)

Even though Ms. Dubro is the real party in interest, and it is her estate at risk in this appeal, the Court of Appeal does not list her as a party to the case. It is as though she is invisible to the court.

California courts have a duty to provide ADA accommodations, *sua sponte*, to a litigant with known disabilities when those disabilities may interfere with effective communication or meaningful participation in a legal proceeding. A written report on this subject was recently submitted to the Judicial Council. It can be found online at: http://spectruminstitute.org/ada-compliance.pdf

The Second District Court of Appeal has appointed counsel to represent probate conservatees in appellate proceedings, regardless of whether they have been designated as appellants, respondents, or overview parties. That court recognizes that as the person who is most central to a conservatorship proceeding, a conservatee needs counsel in order to ensure that his or her views or legal interests are adequately protected in appellate proceedings arising out of a conservatorship.

In *Conservatorship of O.B.* (No. B290805), counsel was appointed for a conservatee who was an appellant. In *Conservatorship of A.E.* (B297092), counsel was appointed for a conservatee who was first designated as an overview party and then renamed as a respondent. Appointment in the latter case was done after Spectrum Institute wrote to the ADA coordinator for the Second District Court of Appeal calling to the court's attention its duties under Title II of the ADA and Government Code Section 11135 which incorporates the mandates of the ADA into state law. (See attached letter).

Whether a disabled litigant in a conservatorship appeal is designated as appellant, respondent, or overview party should not matter. When the court knows that a party has a disability that precludes self-representation, it has a duty to provide an accommodation in the form of appointed counsel. This duty is not dependent on a request for an accommodation being made by the disabled litigant. Requiring a request from those who cannot do so would preclude an entire class of disabled litigants from the protections of the Americans with Disabilities Act. Federal law requires a court to provide an appropriate accommodation on its own motion under circumstances such as these.

I am not making an explicit request under Rule 1.100 of the California Rules of Court. Rather, this is a notice to you, as ADA coordinator for the First District, that a litigant in this appeal needs an accommodation in the form of appointed counsel in order to have effective communication and meaningful participation in this proceeding. In bringing this to your attention, I am merely amplifying materials that are readily available in the record on appeal and information in the opening brief – both sources of which give the court knowledge of the nature and severity of Ms. Dubro's disabilities.

Please bring this notice to the attention of the administrative presiding justice. If the director of the First District Appellate Project is consulted on this, he may wish to speak with Mr. Jay Kohorn of the California Appellate Project. Mr. Kohorn is familiar with the two appeals cited above since that project assigned counsel in those appeals with express direction from the Court of Appeal.

Respectfully,

Thomas F. Coleman
Legal Director
tomcoleman@spectruminstitute.org

Appointed Counsel is an ADA Necessity in Limited Conservatorship Appeals

Under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, once a public entity becomes aware that a recipient of its services has a disability that will significantly impair participation in the service, the entity has a duty to take steps to ensure that the participant will have: (1) effective communication during the services; and (2) meaningful participation in the services similar to those who do not have a disability.

The Court of Appeal is a public entity under the ADA. (Tennessee v. Lane, 541 U.S. 509 (2004)) Once it receives a notice of appeal from an order in a conservatorship proceeding, it is aware that the appellant has significant disabilities impairing cognitive functioning, understanding, communication, and decision-making. Due to the nature of the proceeding, the order being appealed creates a presumption of such a disability.

Olivia Bickley is a 19-year old adult woman who has autism. She is indigent. She was entitled to the appointment of counsel as a matter of law in the trial court proceedings under Probate Code Section 1471. She was represented by the public defender throughout those proceedings.

The conservatorship order is a major infringement on her liberty. She has lost her right to make decisions regarding her residence, education, medical treatment, and finances. Because the proceeding involves such a significant deprivation of liberty, due process rights apply. (In re Link, 713 S.W.2d 487 (Mo. 1986)) Under such circumstances, the appointment of counsel is a requirement of due process. (Matter of Leon, 43 N.Y.S.3d 769 (N.Y. Surr. Ct. 2016))

Because of her disability, Olivia is unable to represent herself on appeal. As a result, she is depending on the Court of Appeal to appoint counsel to represent her so that she will have effective communication during, and meaningful participation in, the appellate process.

More information about the right of counsel in conservatorship proceedings as a component of due process and the ADA – including the duties of courts to comply with ADA requirements – is available online. (http://spectruminstitute.org/white-paper/)

Speaking of Section 504, the United States Supreme Court said: "[A]n otherwise qualified handicapped individual must be provided with meaningful access to the benefit that the grantee offers. The benefit itself, of course, cannot be defined in a way that effectively denies otherwise qualified handicapped individuals the meaningful access to which they are entitled; to assure meaningful access, reasonable accommodations in the grantee's program or benefit may have to be made." (Alexander v. Choate, 469 U.S. 287, 301 (1985))

Federal courts have ruled that the ADA requires public entities to provide "meaningful access" to people with disabilities so as not to deprive them of the benefits of the services provided. (Ability Center of Toledo v. City of Sandusky, 385 F.3d 901, 907 (6th Cir. 2004); Lee v. City of Los Angeles, 350 F.3d 668, 691 (9th Cir. 2001).

A public entity must ensure that communications with recipients of its services are as effective as communications with others. (Robertson v. Las Animas County Sheriff's Department, 500 F.3d 1185 (10th Cir. 2007)) To fulfill this duty, an entity may need to provide an accommodation to the recipient. The appointment of counsel in a legal proceeding has been recognized as a proper ADA accommodation. (www.spectruminstitute.org/washington-ada-rule.pdf)

"Wrongful denial of an [ADA] accommodation is structural error infecting a legal proceeding's reliability, which stands to reason because an accommodation's purpose is to help a party meaningfully participate in a way that enhances our confidence in a proceeding's outcome." (Biscaro v. Stern, 181 Cal.App. 4th 702, 710 (2009))

By filing a notice of appeal, Olivia has exercised her right to appeal from the conservatorship order. That right will be meaningless unless she has an attorney to represent her during the appellate process.

Appointment of counsel will not be an undue burden on the court since appeals by limited conservatees are rare. ("Legal System Without Appeals Should Raise Eyebrows," Los Angeles Daily Journal, February 10, 2015 – http://spectruminstitute.org//no-appeals.pdf)

Thomas F. Coleman
Spectrum Institute / June 6, 2018
www.spectruminstitute.org//court-of-appeal.pdf

IN THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION: 6

Bickley et al. v. Bickley
Olivia Bickley
B290805
SANTA BARBARA No. 17PR00325

THE COURT:

IT IS HEREBY ORDERED that the order previously made appointing counsel is vacated, and California Appellate Project is relieved as counsel for appellant, and the following attorney, who has consented to serve, is appointed counsel for appellant on this appeal:

Gerald Miller

Appellant's brief shall be filed within thirty days from the date of the filing of the completed record on appeal in this case.

_____
Presiding Justice

Attorney's Address:
Gerald Miller (120030)
PO Box 543
Liberty Hill, TX 78642

Attorney's Phone:
(512) 778-4161

Appellant's Address:
Olivia Bickley
c/o 1100 Anacapa St
Santa Barbara, CA 93463

Disability and Guardianship Project

555 S. Sunrise Way, Suite 205 • Palm Springs, CA 92264
(818) 230-5156 • www.spectruminstitute.org

September 30, 2019

Ms. Deborah Lee
ADA Coordinator
Second District Court of Appeal
300 S. Spring Street
2nd Floor, North Tower
Los Angeles, CA 90013

Re: *Conservatorship of A.E.* (Court of Appeal Case No. B297092)
Notice of the need for an ADA accommodation for A.E.

Dear Ms. Lee:

I am writing to you in your capacity as an ADA coordinator for the Second District Court of Appeal. I saw your name on a booklet listing the ADA coordinators for the various Courts of Appeal.

The above-entitled appeal came to my attention on September 24 – the day I was making a presentation at the meeting of the Judicial Council in Sacramento. The focus of my verbal remarks was the duty of California courts to provide ADA accommodations, *sua sponte*, to a litigant with known disabilities that interfere with effective communication or meaningful participation in a proceeding. I also submitted a written report to the Judicial Council on that subject. It can be found online at: http://spectruminstitute.org/ada-compliance.pdf

Little did I know that within minutes after I completed my verbal remarks, I would find out about this appeal. As I read the opening brief, it became clear that A.E., a 27-year-old autistic woman with intellectual disabilities, would not be able to represent herself in this appeal – a proceeding that centers on her and that affects all aspects of her life. I went to the Court of Appeal website and reviewed the page titled "Parties and Attorneys." I saw that A.E. was listed as a party and that her attorney was listed as the Ventura County Public Defender. I contacted the public defender's office by phone and by email. I determined that in fact A.E. does not have an attorney on appeal. The public defender is not representing her in this appellate proceeding.

I spoke with the attorney for appellant (the mother of A.E.) and then spoke with the mother. I confirmed that A.E. is not represented by counsel, that her disabilities preclude her from representing herself, and that the nature and extent of her disabilities prevent her from requesting the appointment of counsel. As a result, in its current procedural posture this case will proceed without the legal rights and interests of A.E. being represented. Appellant has her own personal interests which are being advanced by her chosen attorney. Respondent Public Guardian's institutional interests as appointed conservator are being represented by County Counsel. A.E., in contrast, is being left out of the appellate process.

The Second District Court of Appeal has already set a precedent of appointing appellate counsel for a litigant with autism in an appeal from an order of conservatorship. In that case, the litigant was an appellant. (B290805) That case, *Conservatorship of O.B.*, is currently pending in the California Supreme Court. As an advocacy organization promoting disability rights, Spectrum Institute was given permission by the Supreme Court to file an *amicus curiae* brief in that case.

Whether a disabled litigant in a conservatorship appeal is designated as appellant, respondent, or overview party should not matter. When the Court knows that a party has a disability that precludes self-representation, it has a duty to provide an accommodation in the form of appointed counsel. This duty is not dependent on a request for an accommodation being made by the disabled litigant. Requiring a request from those who cannot do so would preclude an entire class of disabled litigants from the protections of the ADA. Federal law requires a court to provide an appropriate accommodation on its own motion under circumstances such as those in this case.

I am not making an explicit request under Rule 1.100 of the California Rules of Court. Rather, this is a notice to you, as ADA coordinator for the Second District, that a litigant in this appeal needs an accommodation in the form of appointed counsel in order to have effective communication and meaningful participation in this proceeding. In bringing this to your attention, I am merely amplifying materials that are readily available in the record on appeal and information in the opening brief – both sources of which give the Court knowledge of the nature and severity of A.E.'s disabilities. (If the Court were to construe this letter as a request under Rule 1.100 and then grant the request by appointing counsel for A.E., that would be an alternative approach to doing so on its own motion in response to the knowledge it has acquired through this notice.)

While our organization is not representing A.E. on appeal, we would appreciate the courtesy of learning whether the Court of Appeal decides to appoint an attorney as an ADA accommodation in order to ensure that she has meaningful participation in the appellate proceedings or whether the appeal will be processed and decided without A.E. having the benefit of counsel.

In addition to the website link to the Judicial Council report mentioned above, I am providing other documents with this notice. Enclosed you will find an email from public defender's office and a summary of federal regulations and judicial precedents on the *sua sponte* duties of public entities, including courts, to provide ADA accommodations even without request.

I look forward to learning what actions have been taken by the Court of Appeal to fulfill its duties under Title II of the Americans with Disabilities Act, under Section 504 of the Rehabilitation Act of 1973, and under Section 11135 of the California Government Code (which incorporates Title II into California law).

Respectfully,

Thomas F. Coleman
Legal Director
Direct phone: (818) 482-4485
tomcoleman@spectruminstitute.org

cc: Raylene Lopez, Roswald Morales

IN THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION: 6

In re the Conservatorship of A.E.
B297092
VENTURA No. 56-2018-00518054-PR-CP-OXN

THE COURT:

The Court hereby relieves the Ventura Public Defender and appoints the following attorney as counsel for the respondent (conservatee) on this appeal:

Gerald Miller

Respondent A.E.'s brief shall be filed within thirty days from the date of this order.

Presiding Justice

Attorney's Address:
Gerald Miller (120030)
P.O. Box 543
Liberty Hill, TX 78642

Attorney's Phone:
(512) 778-4161

Overview Party's Address:

A.E.
1706 Sinaloa Rd., # 210
Simi Valley, CA 93066

California Rules of Court

(Revised September 1, 2019)

Rule 8.552. Transfer for decision

(a) Time of transfer

On a party's petition or its own motion, the Supreme Court may transfer to itself, for decision, a cause pending in a Court of Appeal.

(b) When a cause is pending

For purposes of this rule, a cause within the appellate jurisdiction of the superior court is not pending in the Court of Appeal until that court orders it transferred under rule 8.1002. Any cause pending in the Court of Appeal remains pending until the decision of the Court of Appeal is final in that court.

(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2007.)

(c) Grounds

The Supreme Court will not order transfer under this rule unless the cause presents an issue of great public importance that the Supreme Court must promptly resolve.

(d) Petition and answer

A party seeking transfer under this rule must promptly serve and file in the Supreme Court a petition explaining how the cause satisfies the requirements of (c). Within 20 days after the petition is filed, any party may serve and file an answer. The petition and any answer must conform to the relevant provisions of rule 8.504.

(Subd (d) amended effective January 1, 2007.)

(e) Order

Transfer under this rule requires a Supreme Court order signed by at least four justices; an order denying transfer may be signed by the Chief Justice alone.

Rule 8.552 amended effective January 1, 2009; repealed and adopted as rule 29.9 effective January 1, 2003; previously amended and renumbered effective January 1, 2007.

Advisory Committee Comment

Rule 8.552 applies only to causes that the Supreme Court transfers to itself for the purpose of reaching a decision on the merits. The rule implements a portion of article VI, section 12(a) of the Constitution. As used in article VI, section 12(a) and the rule, the term "cause" is broadly construed to include " 'all cases, matters, and proceedings of every description' " adjudicated by the Courts of Appeal and the Supreme Court. (*In re Rose* (2000) 22 Cal.4th 430, 540, quoting *In re Wells* (1917) 174 Cal. 467, 471.)

Subdivision (b). For provisions addressing the finality of Court of Appeal decisions, see rules 8.264(b) (civil appeals), 8.366(b) (criminal appeals), 8.490 (proceedings for writs of mandate, certiorari, and prohibition), and 8.1018(a) (transfer of appellate division cases).