IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN THE MATTER OF: CANAAN S. DAVIS	)	
	)	
BARBARA J. FALBO,	)	
	)	**WD88339**
Appellant,	)	
	)	**OPINION FILED:**
v.	)	**June 9, 2026**
	)	
CANAAN S. DAVIS,	)	
	)	
Respondent.	)	

Appeal from the Circuit Court of Jackson County, Missouri
The Honorable Mark A. Styles, Jr., Judge

Before Division Two: W. Douglas Thomson, Presiding Judge, Lisa White Hardwick, Judge, and Mark D. Pfeiffer, Judge

Ms. Barbara Falbo ("Mother") appeals from the judgment of the Circuit Court of Jackson County, Missouri ("probate court"), denying her Petition for Appointment of Guardian for her son, Mr. Canaan Davis ("Son"). We affirm.

Factual and Procedural History[1]

On July 3, 2024, Mother filed a petition requesting that the probate court appoint her as Son's guardian. Mother's petition alleged that Son lacked capacity to meet the essential requirements for food, clothing, shelter, safety, or other care such that serious physical injury, illness, or disease was likely to occur. Following the filing of the petition, the probate court appointed counsel to represent Son.

A bench trial was held on January 27, 2025. At the bench trial, Son's counsel denied the allegations of the petition for guardianship on Son's behalf and otherwise contested Mother's petition for guardianship.

At trial, Mother presented testimony from two witnesses.

First, she presented testimony from a psychiatrist who had treated Son in the year prior ("Psychiatrist").[2] Psychiatrist testified that, in June 2024, she treated Son in the emergency room and during Son's hospitalization that immediately followed. Psychiatrist indicated that Son presented to the emergency room with hallucinations and had not been taking medication as prescribed for his mental illness. Psychiatrist

[1] When reviewing the judgment in an action to appoint a guardian over an individual, this Court considers "the evidence and all reasonable inferences in a light most favorable to the judgment, disregarding any evidence or inferences to the contrary." *Pulley v. Sandgren* (*In re Pulley*), 197 S.W.3d 162, 165 (Mo. App. W.D. 2006).

[2] Pursuant to Missouri Supreme Court Operating Rule 2.02(c)(3), we do not identify the names of non-party witnesses in our ruling today. All statutory references are to THE REVISED STATUTES OF MISSOURI (2016), as supplemented through July 3, 2024, unless otherwise indicated. All rule references are to I MISSOURI COURT RULES – STATE 2025.

diagnosed Son with schizophrenia and treated Son with medication.[3] Psychiatrist stated that, in her opinion, a guardian should be appointed for Son in order to help him become medication adherent.

However, during cross-examination, Psychiatrist stated that the last time she had seen Son was June 12, 2024, nearly seven and a half months prior to the date of trial. And, although Son's schizophrenia was a permanent condition, it could be treated through medication. Psychiatrist testified that not every individual who carries a diagnosis of schizophrenia requires the appointment of a guardian and whether a guardian should be appointed for an individual is a decision that is made on a case-by-case basis. Psychiatrist also admitted that other probate court actions could accomplish the same goal, and be "less invasive[,]" and "less of a depr[i]vation of an individual's rights than a guardianship." Psychiatrist also agreed that her lack of knowledge of Son's medical condition at the time of trial prevented her from having an opinion about which option would be most appropriate at that time for Son.

[3] Psychiatrist's testimony referred to a letter that she had written to the trial court dated June 21, 2024, regarding Son's mental condition at that time. That letter had been filed with the trial court with Mother's petition, but Mother failed to offer that letter into evidence at trial. "[S]imply filing a document with the trial court does not put it before the court as evidence." *Heckadon v. CFS Enters., Inc.*, 400 S.W.3d 372, 380 (Mo. App. W.D. 2013) (quoting *In re Adoption of C.M.B.R.*, 332 S.W.3d 793, 814 n.16 (Mo. banc 2011)). And, this Court "only considers the record made before the [trial] court" and "cannot consider matters extraneous to the record." *Chatman v. Chatman*, 673 S.W.3d 528, 531 (Mo. App. E.D. 2023). Psychiatrist's letter was not admitted at trial; thus, the contents of the letter that Psychiatrist did not testify to at trial are not properly a part of the record on appeal before us and are not considered in today's ruling.

Mother testified that Son had been diagnosed with schizophrenia in March 2023, that Son had been subject to two ninety-six-hour holds due to mental health episodes since his diagnosis, and that in October 2023 Son had quit taking his medications. Mother testified that she understood that Son was incarcerated at the time of trial but offered no evidence about Son's medication adherence while incarcerated. The last time that Mother had spoken to Son was May 2024. Mother had no direct knowledge of Son's current mental condition at the time of trial.

Mother did not present any further evidence in support of her petition for guardianship. Son exercised his statutory right to remain silent pursuant to section 475.075.10(5) and chose not to present any evidence in response to Mother's case-in-chief.

The probate court took the matter under advisement. In the written judgment that followed, the probate court denied Mother's petition for guardianship because Mother had failed to establish by clear and convincing evidence that, at the time of the hearing, Son was incapacitated.

Mother appeals.

Standard of Review

"A judgment entered following a bench trial may be reversed if no substantial evidence supports the judgment, it is against the weight of the evidence, or it erroneously declares or applies the law." *Weeks v. City of St. Louis*, 721 S.W.3d 873, 876 (Mo. banc 2025) (citing *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976)). "We presume the trial court's judgment is valid, and it is the appellant's burden to show otherwise." *Ash v.*

Beal, 690 S.W.3d 489, 492 (Mo. App. S.D. 2023) (quoting *Hurricane Deck Holding Co. v. Spanburg Invs., LLC*, 548 S.W.3d 390, 393 (Mo. App. S.D. 2018)). "Substantial evidence is competent evidence from which the trier of fact could reasonably decide the case." *In re Est. of Schooler*, 204 S.W.3d 338, 344 (Mo. App. W.D. 2006) (quoting *Wallace v. Van Pelt*, 969 S.W.2d 380, 382 (Mo. App. W.D. 1998)). "This court will set aside a judgment as against the weight of the evidence only 'with caution and with a firm belief that the decree or judgment is wrong.'" *Id.* (quoting *Murphy*, 536 S.W.2d at 32).

> A not-supported-by-substantial-evidence challenge requires completion of three sequential steps:
>
> (1) identify a challenged factual proposition, the existence of which is necessary to sustain the judgment;
>
> (2) identify all of the favorable evidence in the record supporting the existence of that proposition; and,
>
> (3) demonstrate why that favorable evidence, when considered along with the reasonable inferences drawn from that evidence, does not have probative force upon the proposition such that the trier of fact could not reasonably decide the existence of the proposition.

Houston v. Crider, 317 S.W.3d 178, 187 (Mo. App. S.D. 2010).

> On the other hand, an against-the-weight-of-the-evidence challenge requires completion of four sequential steps:
>
> (1) identify a challenged factual proposition, the existence of which is necessary to sustain the judgment;
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> (2) identify all of the favorable evidence in the record supporting the existence of that proposition;
>
> (3) identify the evidence in the record contrary to the belief of that proposition, resolving all conflicts in testimony in accordance with the trial court's credibility determinations, whether explicit or implicit; and,

> (4) demonstrate why the favorable evidence, along with the reasonable inferences drawn from that evidence, is so lacking in probative value, when considered in the context of the totality of the evidence, that it fails to induce belief in that proposition.

Id.; *Weeks*, 721 S.W.3d at 877. "Adherence to *Houston*'s analytical framework [for either a not-supported-by-substantial-evidence challenge or an against-the-weight-of-the-evidence challenge] is *mandatory* because it reflects the underlying criteria necessary for a successful challenge—the absence of any such criteria, even without a court-formulated sequence, dooms an appellant's challenge." *Bell-Kaplan v. Schwarze*, 712 S.W.3d 836, 846 (Mo. App. S.D. 2025) (emphasis added) (citation modified).

"Both when considering the existence of substantial evidence and when assessing the weight of the evidence, this court defers to the probate court in its role as the finder of fact, giving 'due regard to the opportunity of the trial court to have judged the credibility of witnesses.'" *In re Schooler*, 204 S.W.3d at 344 (quoting Rule 84.13(d)(2)). "When the evidence poses two reasonable but different conclusions, appellate courts must defer to the circuit court's assessment of that evidence." *Weeks*, 721 S.W.3d at 877 (quoting *Ivie v. Smith*, 439 S.W.3d 189, 206 (Mo. banc 2014)). "Furthermore, 'we accept as true all evidence which is favorable to the prevailing party, including all inferences reasonably deducible therefrom, and we disregard any contradictory evidence.'" *In re Mitchell*, 914 S.W.2d 844, 847 (Mo. App. S.D. 1996) (quoting *In re Walker*, 875 S.W.2d 147, 151 (Mo. App. E.D. 1994)).

Analysis

Mother raises two points on appeal. First, Mother raises a sufficiency-of-the-evidence challenge. Second, she argues that the trial court committed reversible error in refusing to "shift" the burden of proof to Son to prove that he was *not* incapacitated.

Mother's first point fails for several reasons.

First, Mother bears the burden of proof on her petition for guardianship. *See* § 475.075.9 ("The petitioner has the burden of proving incapacity[.]").

> When the burden of proof is placed on a party for a claim that is *denied*, the trier of fact has the right to believe or disbelieve that party's uncontradicted or uncontroverted evidence. If the trier of fact does not believe the evidence of the party bearing the burden, it properly can find for the other party. Generally, the party not having the burden of proof on an issue need not offer any evidence concerning it . . . . Consequently, *substantial evidence supporting a judgment against the party with the burden of proof is not required or necessary*.

In re Int. of A.M.R., 673 S.W.3d 864, 873-74 (Mo. App. W.D. 2023) (emphasis added) (quoting *Maly Com. Realty, Inc. v. Maher*, 582 S.W.3d 905, 911 (Mo. App. W.D. 2019)); *see also In re Int. of K.A.L.*, 705 S.W.3d 554, 566 (Mo. App. W.D. 2024). Thus, because Mother bore the burden of proof on her petition for guardianship, substantial evidence supporting the probate court's judgment finding *against* Mother was not required or necessary. It follows, then, that the probate court cannot be said to have erred in entering a judgment not supported by substantial evidence when the judgment simply ruled against the party bearing the burden of proof.

Second, the judgment *was* supported by the evidentiary record.

"[A]n adult guardianship is appropriate only when a person is incapacitated." *In re Est. of Werner*, 133 S.W.3d 108, 110 (Mo. App. W.D. 2004). An incapacitated person is

> one who is unable by reason of any physical, mental, or cognitive condition to receive and evaluate information or to communicate decisions to such an extent that the person, even with appropriate services and assistive technology, lacks capacity to manage the person's essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur.

§ 475.010(11). "A mental or physical condition alone does not render a person incapacitated. The condition must also interfere with the sufferer's ability to meet essential requirements." *In re Werner*, 133 S.W.3d at 110. "The petitioner has the burden of proving incapacity[] . . . by clear and convincing evidence." § 475.075.9; *see, e.g.*, *In re Isreal*, 673 S.W.3d 531, 535 (Mo. App. E.D. 2023). "Clear and convincing evidence is evidence that clearly convinces the fact finder of the truth of the proposition to be proved." *In re Isreal*, 673 S.W.3d at 535 n.3 (quoting *In re Barnard*, 484 S.W.3d 833, 838 (Mo. App. E.D. 2016)).

"The primary purpose of guardianship proceedings is to protect the well-being of individuals who are not able to care for themselves." *Id.* at 535 (quoting *In re Link*, 713 S.W.2d 487, 493 (Mo. banc 1986)). "The beneficial motives behind guardianship, however, 'obscure the fact that guardianship necessarily entails a deprivation of the fundamental liberty to go unimpeded about one's ordinary affairs.'" *Id.* (quoting *In re Link*, 713 S.W.2d at 493). "The appointment of a guardian . . . is purely statutory." *Id.* at

535. "Like any other matter, careful attention must be paid to the statutory requirements, and the court must ensure that the evidence satisfies those requirements." *Id.*

Here, the probate court's judgment clearly sets forth the reason for its denial of Mother's petition: "neither witness at trial was in a position to know whether [Son] was taking psychiatric medications or otherwise treating his psychiatric illness because they had not spoken with [Son] or had access to his current medical records for a period of seven months." This finding is supported by the evidentiary record.

As the probate court clearly and concisely set forth in its judgment, "[t]he determination of whether to appoint a guardian is based on the person's condition at the time of the hearing." *In re Turnbough*, 34 S.W.3d 225, 227 (Mo. App. E.D. 2000) (citing *In re Matter of Nelson*, 891 S.W.2d 181, 187 (Mo. App. W.D. 1995) ("[O]ur duty at this point is to review the December 20, 1993 judgment of the trial court in the light of the evidence of Mrs. Nelson's condition at the time of the hearing.")); *accord In re Mitchell*, 914 S.W.2d at 847; *cf. In re Barnard*, 484 S.W.3d at 838 (applying the same principle to conservatorship proceedings); *Thiel v. Miller*, 164 S.W.3d 76, 86 (Mo. App. W.D. 2005) (same); *Ryan v. Maddox*, 112 S.W.3d 476, 481 (Mo. App. W.D. 2003) (same). Thus, in order for Mother to prevail on her petition for guardianship, Mother was required to present evidence of Son's mental condition at the time of trial. Instead of doing so, Mother's evidence discussed events that were remote in time, and nothing in this evidence tied those prior issues to Son's current condition.

Both Psychiatrist and Mother testified that Son had stopped taking medication to treat his schizophrenia *in the past*; however, neither witness offered any testimony about

Son's *current* condition or whether he was medication adherent closer to the time of trial. Psychiatrist testified that the last time she had seen or spoken to Son was seven and a half months prior. Mother testified the same. Mother did not present any other testimony or documentary evidence in support of her petition for guardianship that established Son's current mental condition. Thus, the probate court's finding—that Mother failed to prove by clear and convincing evidence that Son was incapacitated because she failed to present evidence regarding Son's current mental condition at the time of trial—was supported by the evidentiary record before the probate court at trial on that issue.

Finally, Mother's argument on appeal utterly fails to follow *Houston*'s analytical framework for either a sufficiency-of-the-evidence challenge or an against-the-weight-of-the-evidence challenge (to the extent her argument is intended to suggest that the judgment is against the weight of the evidence).

For any of these reasons, Point I fails and is denied.

In a slightly different approach attacking the same finding, Mother's second point relied on contends that the trial court misapplied section 475.075.9 in denying her petition for guardianship because the trial court failed to "shift" the burden to Son after she presented a "prima facie case" of incapacity.

As previously discussed, section 475.075.9 states: "The *petitioner* has the burden of proving incapacity[] . . . by clear and convincing evidence." (Emphasis added.)

We first note that Mother did not make a "prima facie case" of incapacity. The trial court expressly stated in its judgment that Mother failed to meet her burden of proof, and as already discussed, that finding was supported by substantial evidence.

But, more importantly, section 475.075.9 provides clear and unequivocal direction on the burden of proof in this case. The text of section 475.075.9, together with the presumption of competency that exists in any case where a party seeks to establish incompetency,[4] demonstrates that Mother had the burden of proof in this action for guardianship and retained that burden of proof throughout the proceeding. Mother fails to cite any Missouri precedent applicable to guardianship proceedings that would require the trial court to ignore the commands of section 475.075.9 and shift the burden of proof to Son to prove that he was *not* incapacitated.[5] Instead, "[Mother] does not meet her burden by arguing that [Son] failed to prove [that he was *not* incapacitated]." *See In re Werner*, 133 S.W.3d at 111.

The probate court did not misapply section 475.075.9 as argued by Mother and, accordingly, Point II is denied.

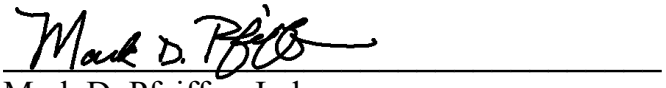
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[4] *See In re Link*, 713 S.W.2d 487, 497 n.10 (Mo. banc 1986) (discussing the "presumption of sanity prior to the ultimate adjudication of incompetency"); *In re Nelson*, 891 S.W.2d 181, 187 (Mo. App. W.D. 1995) (discussing that "an adjudication of partial disability does not affect the presumption of competency"); *see Cohen v. Crumpacker*, 586 S.W.2d 370, 376 (Mo. App. W.D. 1979) ("[T]here is a presumption of sanity preceding adjudication with the burden of proof being on the party who seeks to show want of mental capacity to contract.").

[5] Furthermore, Mother's burden is unaffected by Son raising his right to remain silent at the hearing. In proceedings seeking to establish guardianship over the respondent, the respondent has the "right to remain silent[.]" § 475.075.10(5). The legislature's enactment of section 475.075.10 "reflects a legislative intent to provide greater protection for the rights of alleged incompetents" than existed without the enactment of that subsection. *See Link*, 713 S.W.2d at 494. To grant Son a specific statutory right to remain silent in guardianship proceedings but permit, as Mother suggests, the court to impute an "adverse inference" against him for invoking that right would be to merely pay "lip service" to that right "as a mere formality, with the consequence that any substantive protection is woefully lacking." *See id.* at 494 n.8 (quoting *Quesnall v. State*, 517 P.2d 568, 575 (Wash. banc 1973)).

Conclusion

The judgment of the probate court is affirmed.



Mark D. Pfeiffer, Judge

W. Douglas Thomson, Presiding Judge, and Lisa White Hardwick, Judge, concur.