

COA Opinion: Conservator may be appointed for estate of a “vulnerable adult,” but test not met where adult did not have requisite impairment

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In *In re Conservatorship for Kathryn M. Townsend*, No. 296358, the Court of Appeals reversed the probate court’s appointment of a conservator over appellant Townsend’s estate, concluding that while it may be appropriate to appoint a conservator for the estate of a “vulnerable adult,” the evidence did not show that Townsend was a “vulnerable adult.”

Townsend’s son petitioned the probate court for appointment of a conservator for the estate, claiming that Townsend had a diminished mental capacity and that the “gratuitous spending” of Townsend’s money by her relatives would leave Townsend destitute. Townsend admitted to providing her relatives with financial aid and to accumulating large amounts of debt, but her physician testified that she did not suffer dementia and that her mental capacities were above average. The probate court concluded that appointment of a conservator was appropriate for a “vulnerable adult,” and held that Townsend classified as such.

The Court of Appeals agreed that, under MCL 700.5401, a court may appoint a conservator for a “vulnerable adult.” Though the statute enumerates eight conditions that would affect an individual’s ability to manage his affairs, those enumerated conditions are preceded by the language “for reasons such as.” The court concluded that this is a phrase of enlargement, and therefore appointment of a conservator is justified for any circumstance that is “of a similar nature and quality to the eight conditions listed in the statute.” The definition of “vulnerable adult” found in the Social Welfare Act (SWA) requires mental, physical, or advanced age-related impairment. Thus, under this definition, the condition is sufficiently similar to the conditions listed in MC 700.5401. The court determined that appointment of a conservator was proper upon a finding that an individual met the SWA’s definition of “vulnerable adult.” However, the Court of Appeals reversed the probate court’s appointment of a conservator for Townsend, holding that there was no evidence of mental, physical, or age-related impairment to find that Townsend was a “vulnerable adult.”