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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF WALLA WALLA

In Re the Matter of the)
Guardianship of:)
BONNIE JEANNE SOUTHALL,) No. 17-4-00078-5
An Alleged Incapacitated Person.)

The above-entitled and numbered cause came on for hearing before the Honorable M. SCOTT WOLFRAM, one of the judges of the above-entitled court, sitting in Department Number 2 thereof, on the 7th day of August, 2017, in the courthouse in the City of Walla Walla, County of Walla Walla, State of Washington.

APPEARANCES:

MR. WYATT ROLFE, Attorney at Law, appeared in behalf of the Petitioner, Lawrence Forsberg.

MR. DAVID GROSSMAN, Attorney at Law, appeared as Guardian ad Litem for Bonnie Jeanne Southall.

MR. LARRY SIEGEL, Attorney at Law, appeared as Bonnie Jeanne Southall's personal attorney.

WHEREUPON, the following proceedings were had, to-wit:

THE COURT: That leaves us with the Southall Guardianship.

MR. ROLFE: Your Honor, there was indication to some of the people involved that we may look at 11:00 a.m. at the end of the docket.

1 MR. GROSSMAN: Ms. Southall is here. Mr. Siegel was here
2 earlier and he had sent me an email, your Honor, indicating
3 -- suggesting that Ms. Southall was going to sign a power
4 of attorney in Barbara Clark, attorney in fact, and then
5 suggesting that that would obviate the need for the
6 guardianship proceedings.

7 It may be that Ms. Clark is expecting to be here at
8 11:00. I don't know. But Ms. Southall is here, her
9 friend, Catherine Galvin is here as well. I saw her come
10 in.

11 THE COURT: So did she sign?

12 MR. GROSSMAN: I don't believe so, your Honor. And I
13 have -- I strongly believe that a guardianship is
14 warranted. I question whether, you know, she would have
15 the capacity right now to sign a power of attorney.

16 If the Court is inclined to continue it -- and no one has
17 urged that before the Court right now -- I would ask for a
18 further evaluation by Dr. Page.

19 THE COURT: Well, let's do this. Let's continue it to
20 11:00 and see if anybody else does or doesn't appear back.

21 MR. GROSSMAN: Okay.

22 THE COURT: And then we will take it from there.

23 MR. GROSSMAN: 11:00 it is.

24 THE COURT: Yes.

25 MR. ROLFE: Thank you.

1 THE COURT: That would be today at 11:00. Thank you.

2 (A short recess was taken.)

3 THE COURT: Okay. Back on the record.

4 MR. ROLFE: Good morning, your Honor. Wyatt Rolfe on
5 behalf of Petitioner in this case, Larry Forsberg. This is
6 a petition for full guardianship of the estate and person
7 of Bonnie Jeanne Southall.

8 And Mr. Forsberg is an employee of Providence St. Mary
9 Home Health. And that was the basis of this petition, were
10 concerns that Providence St. Mary Home Health was seeing in
11 the home of the -- of Ms. Southall.

12 Mr. Forsberg still does seek full guardianship of the
13 estate and person. I have prepared an order for the Court
14 today.

15 On -- As a side note, there was an ancillary VAPO
16 proceeding that was concurrent with this case, your Honor.
17 That had a hearing on this last Friday, August 4. And at
18 that hearing, Commissioner Mitchell terminated the VAPO
19 that was in place against the current attorney in fact that
20 Ms. Southall has, by the name of Catherine Galvin.

21 So over the weekend with the VAPO no longer in place,
22 it's now our understanding that there has been a
23 conversation with Mr. Siegel with respect to a potential
24 new power of attorney naming a new attorney in fact.

25 My client, nevertheless, believes that some type of

1 guardianship needs to be in place and still urges the Court
2 to find a full guardianship of the estate and person.

3 I do have witnesses here available to provide testimony,
4 including the appointed guardian ad litem in this case,
5 Mr. David Grossman.

6 THE COURT: First of all, does any -- Mr. Siegel, do you
7 have anything to add?

8 MR. SIEGEL: Yes, your Honor. While I have not formally
9 appeared in these proceedings, I have been Bonnie Jeanne
10 Southall's personal attorney for the last 20 years or so,
11 as well as her husband's, who is now deceased.

12 And I did prepare a power of attorney, which she has not
13 signed as yet, which names Barbara Clark as her attorney in
14 fact. Barbara is willing to serve in that capacity. And
15 as my declaration points out, Bonnie Jeanne Southall, when
16 I met with her in her room about a week ago appeared to me
17 to be fully competent.

18 And so we were hopeful that the power of attorney would
19 be signed, but she was hesitant to sign it this morning. I
20 think there's a lot of confusion going on as a result of
21 these proceedings and she is 98 years old -- or will be
22 within a few days. And so just the enormity of the whole
23 situation has her a bit confused this morning.

24 THE COURT: My review of the entire file and the report
25 from Omni, I'm inclined to follow the recommendations and

1 have OmniGuardianship appointed.

2 MR. ROLFE: Your Honor, I do -- I do have a proposed
3 order.

4 THE COURT: Okay.

5 MR. ROLFE: If I may approach?

6 THE COURT: Please.

7 MR. GROSSMAN: And, your Honor, in the order, I believe,
8 Mr. Rolfe incorporated some suggestions that I had that
9 took into account house -- Substitute House Bill 1402,
10 which provides for a new section to RCW 11.92. And that
11 legislation, as I understand it, came out of the Casey
12 Kasem case where the wife was isolating him. And so it
13 conveys new language that the guardian will not substitute
14 judgment on the person's right to associate with persons of
15 their choosing.

16 However, it does leave open the right of the guardian to
17 seek a further order from this Court or to obtain a VAPO in
18 the event it becomes necessary. So I believe that language
19 is incorporated in the order.

20 THE COURT: Okay.

21 MR. SIEGEL: Your Honor, if I could add one thing?

22 THE COURT: Yes.

23 MR. SIEGEL: In my declaration I mentioned that the
24 person who held power of attorney, Catherine Galvin, was
25 like a daughter to Bonnie Jeanne Southall, someone she

1 cares about and wishes to continue an unlimited
2 association.

3 And it is my understanding that as this commences, that
4 will be the case, unless and until the guardian --

5 THE COURT: Correct.

6 MR. SIEGEL: -- views the situation as needing attention.

7 THE COURT: Correct.

8 MR. SIEGEL: Thank you.

9 MR. GROSSMAN: And, your Honor, I --

10 THE COURT: I'm going to hand this down for counsel to
11 sign.

12 MR. GROSSMAN: And I would note I have put in a fee
13 application.

14 THE COURT: I think everybody has.

15 MR. GROSSMAN: Yes. The fees are a little bit more than
16 normal just because of the complicated nature of the case.

17 THE COURT: I understand. And does Omni have any
18 questions?

19 MS. PERKINS: No, your Honor.

20 THE COURT: Okay.

21 MR. SIEGEL: Your Honor, I think Ms. Southall would like
22 to make some comment to the Court.

23 THE COURT: That's fine.

24 MS. GALVIN: Do you want her to approach the bench?

25 THE COURT: If she is comfortable there, that's fine.

1 MS. SOUTHALL: I feel like I need an attorney.

2 THE COURT: Okay. And Mr. Siegel has been representing
3 you. Is that okay with you for him to continue in that
4 capacity?

5 MS. SOUTHALL: I can't hear what he's saying.

6 MR. SIEGEL: Your Honor, if there is a --

7 THE COURT: Hearing device?

8 MR. SIEGEL: If there's a need to object to the
9 guardianship or whatever, I do not feel I'm the appropriate
10 person to represent her.

11 I think she was advised of that. Mr. Grossman can
12 comment on that at the initial --

13 MR. GROSSMAN: Yes, your Honor.

14 MR. SIEGEL: -- meeting.

15 MR. GROSSMAN: I met with Ms. Southall four times. I met
16 with her three times, talked with her on the phone once
17 most recently about ten days ago. I wanted to be sure that
18 she did not object to the guardianship. And she at no time
19 expressed a desire to object to the guardianship.

20 In fact, she was with respect to the finances said that
21 she needs help with her finances. Dr. Jon Gardner, her
22 physician --

23 THE COURT: Indicated the same.

24 MR. GROSSMAN: -- indicated the same. I advised her of
25 the right to a jury trial, the right to have counsel. She

1 no time indicated that.

2 I think, your Honor, what is being demonstrated -- The
3 VAPO went away Friday. I understand Ms. Galvin has been
4 down at Ms. Southall's both days over the weekend. I think
5 we are seeing some undue influence going on here. I think
6 there's a lot of water under the bridge.

7 We are here at the final hearing and it's a little late
8 to be requesting an attorney. I think that we need to put
9 the guardianship in place. And there are no restrictions
10 as to social interactions at this time. But I would --

11 THE COURT: Correct.

12 MR. GROSSMAN: -- comment to the Court that there is a
13 history documented by multiple declarations filed in the
14 VAPO, which I filed in this proceeding as well, of
15 emotional abuse by Catherine Galvin. And I understand Ms.
16 Southall has expressed she wants her in her life. I can
17 appreciate that. But I think that somebody needs to be in
18 place to monitor that so if there are problems in the
19 future.

20 And I think we are seeing some of those problems right
21 now, that there's a procedure to come back before your
22 Honor to modify the order.

23 THE COURT: Correct.

24 Anything further?

25 MS. GALVIN: If -- If -- I don't have an attorney.

1 THE COURT: If you could identify yourself?

2 MS. GALVIN: Oh, I'm -- I'm the -- I'm Catherine Galvin.

3 THE COURT: Okay.

4 MS. GALVIN: May I say something?

5 THE COURT: Yes, ma'am.

6 MS. GALVIN: Oh, well, I'm sorry that Mr. Grossman is
7 upset that I have been with my friend for two days, but I
8 was unable to speak to her or see her for two months except
9 for a couple of several lunches under supervision.

10 And there are many distortions, hearsay, untruths in the
11 testimony that's been presented. There are also some
12 truths. Jeanne and I sometime do disagree. We are
13 friends. She is not my mother. We are friends. If she is
14 in danger, I'm going to ask her to get out of danger.

15 So that -- that is really a problem. She has had people
16 that have been wooing her, and sort of seducing her into
17 believing that I am the arch enemy.

18 This all emanates from what happened to her in November
19 of last year when the mistake that people at St. Mary's
20 mistakenly discontinued her thyroid medication. She was
21 without it for months. Nobody found out about it. They
22 instituted a guardianship at that time without looking into
23 what the cause was.

24 I researched the cause and found out -- I'm a nurse
25 practitioner. I found out that in fact they had

1 discontinued abruptly her thyroid on November 5. It was
2 not reordered until January 4. All that time my friend was
3 terrified, confused, disoriented. We didn't know about it
4 because she was in rehab. She never left her room. When
5 she came back to Park Plaza, I could see that she was
6 confused, she had paranoid episodes, things like that.

7 And when I researched and found out what had happened
8 with her medication and there's documentation that I have
9 submitted that tells -- cites cases of people who have been
10 off their thyroid medication, an 84 year old person who was
11 off their thyroid medication for 8 days and had episodes of
12 confusion.

13 Some of the people from Home Health -- Some of the
14 people from Home Health are wonderful, others have been
15 very self-serving in there. Mr. Forsberg's application for
16 the guardianship and for the restraining order were both
17 based on false information.

18 THE COURT: That I don't have any part of so --

19 MS. GALVIN: Oh, that's not -- I'm just -- I'm done.

20 MR. ROLFE: Your Honor, I'm --

21 THE COURT: Yes. Based on the medical testimony from Dr.
22 Gardner, I feel very comfortable with Omni being appointed
23 as full guardian and you continuing to have contact.

24 MS. GALVIN: But did he say anything about the absence of
25 thyroid for two months?

1 THE COURT: I don't believe I recall that.

2 MS. GALVIN: Yeah, that a pretty salient fact.

3 THE COURT: But he's been her treating physician for some
4 time.

5 MS. GALVIN: Right. And I have been her friend longer
6 so --

7 THE COURT: I understand.

8 MR. GROSSMAN: And, your Honor, I would note that the
9 medical/psychological report was based on Dr. Gardner's
10 examination of Ms. Southall within probably a month of the
11 guardianship being commenced in April. So this was after
12 the thyroid medication issue.

13 THE COURT: Correct. Correct.

14 MS. GALVIN: It goes on for a long time.

15 THE COURT: I understand.

16 Thank you. I have signed the paperwork.

17 MS. GALVIN: What about this -- What about her request
18 for an attorney?

19 THE COURT: If she would like to hire an attorney, she
20 can.

21 MS. GALVIN: So she wanted to.

22 MR. GROSSMAN: Your Honor, I would -- with all do respect
23 to the Court, I would submit that once the order has been
24 signed, she does not have the ability to contract services
25 of an attorney. I think a petition would need to be filed

1 with this Court.

2 THE COURT: Correct.

3 MS. GALVIN: But that's why she asked for an attorney.
4 Nobody asked her to speak before that. She has been silent
5 throughout. This woman is not --

6 THE COURT: Mr. Grossman has talked to her numerous
7 times.

8 MS. GALVIN: But -- But he's on that side. This woman
9 is not --

10 THE COURT: He's not on any side, ma'am.

11 MS. GALVIN: She is not incompetent. She is not an
12 incompetent adult.

13 THE COURT: Didn't indicate she was.

14 MS. GALVIN: But that's what this whole guardianship is
15 based on.

16 THE COURT: No, it is not.

17 MS. GALVIN: What is it based on?

18 THE COURT: But I'm done at this point. Thank you.

19 MS. GALVIN: Wasn't it based on her incompetency?

20 THE COURT: Court is adjourned.

21 (Court adjourned.)

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CERTIFICATE

STATE OF WASHINGTON) No: 17-4-00078-5
) :ss
County of Walla Walla)

I, Tina M. Driver, CCR, Official Court Reporter and Notary Public for the State of Washington, Washington CCR Number DRIVETM438CP, residing in Walla Walla, Washington, do hereby certify:

That I am a certified court reporter;

That I was duly authorized to and did report the hearing in the above-entitled cause;

That the foregoing pages of this verbatim report of proceedings constitute a true and correct record of the proceedings to the best of my ability, including any changes made by the hearing judge reviewing the transcript;

I further certify that I am not an attorney nor counsel of any of the parties; nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 7th day of March, 2018.



TINA M. DRIVER, CCR, Official Court Reporter, Notary Public of the State of Washington, residing in Walla Walla, Washington. My Commission expires: 9/9/18