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Once in a guardianship, few get out Courts tend to ignore people labeled incompetent



BROOKE L. AVALLEY | DISPATCH

Geralyn Stancin spent years fighting a court ruling that she was incompetent. In that time, she was locked in a nursing home and forced to take medicine. Her assets were liquidated, including her \$212,000 home. She has more reason to smile now.

By **Mike Wagner, Jill Riepenhoff, Lucas Sullivan & Josh Jarman**

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Getting into a guardianship is far easier than getting out.

By its very nature, a guardianship establishes that an adult doesn't have the mental capacity to make proper decisions, creating an almost impossible hurdle for those declared incompetent to prove otherwise.

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The path to a guardianship begins with an evaluation from a health-care expert detailing why the adult needs someone to manage his or her affairs.

A *Dispatch* analysis of more than 700 Franklin County guardianship cases opened during a three-year span beginning in 2007 found that in more than a third of the cases, a medical or mental-health professional determined that a patient was incompetent in less than 30 minutes.

More than 1 in 5 of them had never before seen the patient.

The doctor, in his first-ever meeting with Geralyn Stancin, called her psychotic and noted what he described as her "normal IQ." Others decided the best treatment was to lock her in a nursing home and force her to swallow a handful of pills daily to wall off her mind from reality.

The plan, one born from an unwanted guardianship, was to chemically restrain Stancin for the rest of her life because chunks of her hair were missing, she had a lazy eye, she rambled faster than an auctioneer, and she allowed her Worthington-area house to fall into such disrepair that she faced criminal charges.

For years, Stancin begged judges, pleaded with doctors and implored her own guardians to free her from a legal system that had reduced her to the status of a child. She had no control over her existence and no legal standing to make her own decisions.

But the harder she fought, the more those experts were convinced that they were dealing with an incompetent woman who needed to be saved from herself.

"The guardianship took my entire life from me," said Stancin, now 56. "I lost my home, my business, my money, my friends. I lost everything."

Determining incompetence is a major legal process that strips adults of their fundamental right to decide what's best for themselves.

After receiving the doctor's report, a court investigator weighs in with his or her observations of the adult's appearance, living conditions and comprehension of what a guardianship means. A judge or magistrate uses that information to determine whether the adult needs a guardian to take over as the decision-maker about health, finances and other important issues.

The doctors' opinions carry a lot of weight, but some doctors "don't know how to assess capacity," said Julia R. Nack, who runs a volunteer-guardian program for the Central Ohio Area Agency on Aging and is considered a national expert on guardianships. "We want a functional assessment. The reality is that you're not taught in medical school how to assess capacity."

A better approach, Nack said, would include a team of experts evaluating the adult's medical, social and



To whom it may concern at the Probate court:
My previous guardian Julie Yore hardly ever talked to me and Paul normally my new guardian is so better he sends his office staff (Alexis) to talk to the witness. I would like an accounting of all of my personal property and the money from the sale of my house. I would like to know how all of the proceeds were spent. Julie also self-



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cognitive skills.

The one required check by the court system — an annual review of the ward's competency — is easily erased by a court magistrate if a doctor says the patient will never improve. Once a guardian stops submitting those evaluations, wards are effectively locked in the system. No one tests their competency again.

On average, a judge agreed to halt such evaluations after two years, *The Dispatch* found.

Some doctors might have a vested interest in keeping a guardianship because the patient lives in a nursing home where the doctors work. Guardians, too, might have a stake because they can collect thousands of dollars in fees for service to the ward.

The nursing-home staff doctor who evaluated Stancin first said her prognosis was "fair-poor." A year later, he decided that she could never manage on her own again.

It wasn't easy moving from room to room because there was so much furniture and clutter in Stancin's home. Columbus housing-code inspectors cited her in 2002 for loose gutters, furniture in the yard and excessive dog feces.

Everything about Stancin appeared messy — her home, her looks and a once-successful antique business that helped her pay for her \$212,000 home with cash.

Even Stancin acknowledged that she needed some assistance with her finances. She wanted a conservatorship, a much - less - restrictive process that would allow someone to help her manage money but not take over her life.

While she was being treated at a hospital for an illness, a doctor determined that she couldn't take care of herself and recommended a guardianship.

On March 27, 2002, despite Stancin's ferocious objections, a Probate Court magistrate appointed Julie Vore, a Columbus lawyer, as her guardian.

Vore said she did everything in her power to avoid placing Stancin in a nursing home. She tried to find help for Stancin from social-service agencies and assisted-living programs. But Stancin didn't qualify for any of them.

"Stancin was intensely vulnerable," Vore said. "I was open to everything, but in the end, the guardianship and getting her into Medicaid was the only way she could get the care she needed."

Guardianship doesn't have to be an all-or-nothing proposition. Probate courts can limit the amount of time an adult needs guardianship or what the guardian can control. But it often becomes an all-encompassing relationship.

In Franklin County, of the more than 3,800 guardianships that have been opened since 2000, only 30 were conservatorships, in which the adult needed help only with managing his or her finances, a *Dispatch* analysis of the court docket found.

Court computer-tracking systems make it virtually impossible to determine how many guardianships were for a limited period or for specified decision-making, but anecdotally, court observers say the number is relatively small.

The Franklin County Board of Developmental Disabilities tried to help one of its clients change her guardianship to one that gave her more decision-making powers.

Agency officials wrote to the court that the 28-year-old woman could add, subtract, communicate effectively, read and write, and had a round-the-clock caregiver. She just needed someone to make medical decisions.

The woman also pleaded her case. Her guardian, she wrote in 2012, "is a very controlling person, and she thinks she can make all my decisions for me. She tells me how to spend my money and what I can and cannot spend it on. She tried to intimidate me to do what she wants and has threatened to ... send me to a mental hospital."

The court denied her request.

In what seemed like a small victory for Stancin, then-Judge Lawrence A. Belskis limited her guardian to making only medical and financial decisions — not lifestyle. But that medical decision-making power by her guardian put Stancin in a nursing home — locked down and drugged up on the advice of her doctors.

The same day that Stancin was placed in a guardianship, she started doing everything in her power to get out of it. She filed every objection and appeal that was legally allowed.

There were hearings and more competency evaluations, all of which continued to say she needed a guardian. But the medical experts could not agree on what was wrong with Stancin. Over the years, doctors said she suffered from schizophrenia, obsessive personality disorder, depression, dementia, midline brain malfunction and numerous other disorders.

Her legal battle went all the way to the Ohio Supreme Court, but the high court declined to take her case.

All of that legal fighting meant the attorney fees were piling up. When it was over, Stancin had spent \$28,000 in her futile attempts to end the guardianship.

After Vore decided to put her on Medicaid and place her in a long-term-care nursing home, it took all of Stancin's remaining money, and her assets were liquidated, including her house.

"I was powerless to stop what was happening," Stancin said. "I initially wanted help to make sure I kept my home, and that was the first thing that was sold off."

Vore received about \$68,000 in legal fees from Stancin's assets during the four years she served as her guardian, until 2005. She said Stancin's case required daily attention and that she didn't bill for hundreds of hours of legal work.

"It was an enormous undertaking that required an incredible demand for her care," said Vore, who now works for the federal government. "She is very complicated, and so was her case."

Fighting a guardianship can be costly. If the wards have assets, they have to pay both an attorney to help them escape and the guardian they don't want.

Retired Columbus Firefighter Norman Baker built an estate worth about \$1.8 million as a real-estate investor and landlord.

But he ended up in a Fairfield County hospital in 2005 with an infection that made him so sick that he couldn't make wise decisions. The hospital sought a lawyer to serve as his guardian.

The guardianship was supposed to last only until Baker recovered. But by the time he regained his mental capabilities, the guardian had seized control of his assets and his life. A judge had given the guardian full decision-making authority indefinitely.

Baker fought the guardianship until he won his freedom in 2008 and a settlement that prevents him or any of the attorneys involved from discussing the case.

The whole scenario so incensed Rebecca Cooper, a social worker who advocates for nursing-home residents' rights, that she asked the Fairfield County Probate Court to investigate.

"Our office is committed to assisting Mr. Baker in attaining his highest quality of life, to be free from financial exploitation, coercion and other unethical situations involved in this case," Cooper wrote. "I trust that you, as (the superior) guardian, will investigate ... and provide this man the peace of mind he deserves."

It didn't help.

His life savings was gone, and more than \$125,000 went to pay his own attorneys to end the guardianship.

The bulk of Stancin's assets also went to attorneys she didn't want.

Stancin would wait until after dark, when the effect of the drugs would wear off, to write the letters. She sent numerous letters at once, even recycling the same language.

They were her cries for help, and most of them went unanswered. She didn't have an advocate in the guardianship system who believed she was competent. There was no one to argue her case.

She had only the letters, which were summarily filed away in her thick Probate Court file.

March 4, 2003: *"I want to be re-evaluated. I have not heard from or seen my guardian in seven months or more."*

July 29, 2005: *"I have been confined in a locked unit of a nursing home and unable to go out on passes. I want to be able to live in a community with assistance."*

Dec. 30, 2005: *"My previous guardian, Julie Vore, hardly ever talked to me, and Paul Kormanik, my new guardian, is no better. He sends his office staff to talk to his clients. I would like an accounting of my personal property and the money from the sale of my house."*

June 7, 2006: *"I have a psychiatrist and a doctor who are supposed to see me on a regular basis, and they do not. The doctor has only come to see me 5 to 10 minutes the first day I was here, and I have now been here almost 3 years. I have asked for my medicines to be reduced because of dizziness and drooling, and balance problems."*

June 16, 2006: *"My one night nurse says I am not leaving here any time soon because the doctors will not allow me to have the evaluation I have waited 8 months for."*

April 15, 2008: *"I wrote many letters to my lawyer and to you judge; never got any response to my questions, and I got a response and it wasn't to the questions I asked. When I write court and others, my social worker tells me I'm being OCD. I've been locked up now for four and a half years at Regency Manor alone; and before that at Riverside Hospital, Twin Valley Behavioral Health, Winchester Place and Windsong Village and always in a secured locked unit. Some of my medical needs have been ignored ... and I have been advocating for myself about the issues (my back and hand.) I was told in August 2007 I was going to be discharged, and to date, it hasn't happened and everything I do to try and help myself is considered a 'behavior.' I am very determined to move forward with my life."*

Challenging a guardianship without a strong advocate is a nearly impossible task.

Of more than 1,100 cases *The Dispatch* reviewed in Franklin County, the newspaper identified 25 in which an adult asked to terminate the guardianship. All but one was denied. Most of the challenges — 18 — came from wards themselves.

The sole success story belonged to a man who recovered from traumatic brain injury after years of therapy and rehabilitation.

Even with credible witnesses on their side, wards face sometimes-insurmountable hurdles.

One woman wrote a passionate letter asking the court to set her free because her husband, who serves as her guardian, was stealing her money and having affairs. Even her doctor agreed that she was competent.

Her husband countered with his own letter, saying that his wife was mentally unstable and off her medication. The guardianship remained.

The court sometimes even ignored the opinions of its own investigators. In at least two cases, investigators said a guardianship was unwarranted, but it continued anyway.

Stancin, with her eccentric looks and spastic speech, made herself an easy target to be branded incompetent. The court investigator even noted in his report that she had "serious problems with her hair."

After seven years, the court appointed a new guardian who allowed Stancin to move from the nursing home to an apartment. And as she began building her new life, she found another person who believed in her.

Psychologist David Weaver was in the back of his East Side church one day when he saw a disheveled woman limping around, trying to console a family after a funeral. He figured out that this was the woman he had heard about, the one who had been locked up in nursing homes and drugged for many years.

It took one conversation with Stancin for Weaver to be convinced that she wasn't crazy, wasn't incompetent and didn't need a guardian.

"It was easier to throw her away than it was to help her function, and that's what they did," Weaver said.

"The guardianship system is one that enslaves people and strips them of their personal freedom."

Weaver determined that Stancin suffered from fetal alcohol syndrome and depression and had been abused as a child, none of which made her incapable of making her own decisions.

*On Nov. 6, 2009, relying on testimony from Weaver and Dr. Jennifer Hartman, who is a family practitioner, **a magistrate terminated Stancin's guardianship.***

Since that day, Stancin spends most of her time volunteering at the church, trying to provide food, support or good cheer to those who need it. There have been challenges, and she acknowledges there are times when she needs help .

Vore said she is happy that Stancin is living independently, but she defended the guardianship.

"Being a part of her community again is a success, but that doesn't mean she didn't need assistance before because she was so vulnerable," Vore said. "I did my best to help her, and Stancin will always be a part of my life."

Stancin remains angry at Vore and the others who allowed her to be chemically restrained and removed from society for seven years. She sued Vore and others in 2011, but the case was dismissed.

"I have tried to move forward, but it's so difficult to forget everything was taken from me," Stancin said. "It will never be the same, but at least I got my life back."

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SUSAN RILEY (SULEE)

Thank you Mike, Jill, Lucas and Josh for researching and writing this series of articles. I can't imagine how you got through it without hitting things - hard.

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FREDERICK SHEEMAN (FREELoader)

Let us keep in mind that lawyers wrote the "guardianship" rules. In other words, they wrote for billable hours and a guaranteed income stream with no one to answer to for mishandling the cases. You can bet that Stancin won't be able to recoup the monies that were legally taken from her for "care" she didn't really need. Face it, who actually checked to see if she really needed the level of care she was receiving? Why should she be liable for those costs? Shouldn't the legal and medical providers that mishandled her case be made to refund her for the funds that were misappropriated. You can bet that Vore and others will disagree if it means that their personal funds will be endangered - never mind the welfare of the "patient".

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RONALD L SOLOVE (REACKSHUNARY)

Not quite accurate, Frederick. The overwhelming majority of the members of the Ohio House of Representatives and Senate are NOT lawyers. The problem is the lack of caring and inadequate funding for services to those who are unable to care for themselves.

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KELLY PACK (KPACK)

Great reporting. Each piece I read in this series leaves me more speechless than the previous one. It's no wonder in each piece the same attorney names are coming up, with frequent "undisclosed" conflicts of interests to report. I hope this wonderful piece of journalism removes them from guardianship they currently have and any going forward. The attorneys should be ashamed, it is evident many of them have not acted good faith.

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