

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
IN THE MATTERS OF:)
JACQUELINE GWENDORA WILLIAMS,)
Alleged Incapacitated Individual)
Regency Hospital of Greenville, LLC, d/b/a)
Regency Hospital of Greenville,)
Petitioner,)
vs.)
Jacqueline Williams, alleged incapacitated)
individual, Mary Sullivan Porter, Angela Giles,)
and Triziequeka Green, next of kin,)
Respondents.)

IN THE PROBATE COURT

CASE NO: 2022-GC-23-00076/77

ORDER

FILED
NOV - 1 2022
GREENVILLE COUNTY
PROBATE COURT

RECEIVED

Sep 11 2023
SC Court of Appeals

Hearing Date: September 26, 2022
Presiding Judge: Elizabeth P. Wiygul, Associate Probate Judge
Appearances: Evan Phillips for Petitioner
Chadwicke L. Groover for Respondent Mary Porter
Jessica Ferguson, GAL for Respondent Jacqueline Williams

This matter was initiated by Petitioner, Regency Hospital of Greenville, LLC, filing a Petition seeking a determination of incapacity and appointment of a professional Guardian and Conservator for Respondent Jacqueline Williams (hereinafter “the A.I.I.”). Respondent Mary Porter, the mother of Jacqueline Williams, filed an Answer and Counterclaim asking the Court to deny the Petitioner’s Petition and honor the A.I.I.’s existing Durable Power of Attorney and Health Care Power of Attorney.

A final hearing was held in the Probate Court for Greenville County on September 26, 2022. Present for the hearing were the following employees of the Petitioner, Dr. Thomas Philip, and Gasiya Lambert, represented by Attorney Evan Phillips. Also present were Respondent Mary Porter, represented by Attorney Chadwicke L. Groover, and Respondents Angela Giles and

Triziequeka Green. Additionally, Dawn Edwards of Family Services, Inc, the proposed Conservator, Jimmie Johnson of Johnson Senior Advisors, the proposed Guardian, and the Court appointed Guardian *ad Litem*, Jessica Ferguson, were present. All parties to this action were served and received proper and timely notice of the hearing.

Having reviewed the filed documents and having considered the testimony offered at the hearing, I make the following findings:

1. The A.I.I. is a resident of Greenville County, and South Carolina is her home state. No Guardian has previously been appointed for the A.I.I. Therefore, this Court has subject matter jurisdiction over the issues, personal jurisdiction over the parties, and venue is proper in Greenville County.
2. On August 17, 2021, the A.I.I. executed a Health Care Power of Attorney and a Durable Power of Attorney, naming her mother, Mary Porter, as her agent on both documents.
3. The A.I.I. suffers from end stage renal disease, hypertension, diabetes mellitus type 2, coronary artery disease, and other comorbidities. She has a permanent tracheostomy and requires hemodialysis.
4. In April 2021 the A.I.I. contracted Covid-19 and has suffered from on-going persistent encephalopathy. She was admitted to the hospital in November 2021 with seizures that required intubation. She is minimally responsive to stimuli and is dependent upon others for all her activities of daily living.
5. On December 7, 2021 the A.I.I. was admitted to Regency Hospital of Greenville with acute hypoxic respiratory failure, where she remains today.
6. Petitioner represents to the Court that Jacqueline Williams is no longer in need of acute care services and needs to be transferred to a skilled nursing facility where she can receive

care for her chronic conditions. However, there is currently no skilled nursing facility in South Carolina that can care for a patient with a permanent tracheostomy, who also requires in-patient dialysis.

7. Dr. Horace Edward Walpole, Jr., M.D. submitted an Examiner Report and Affidavit Regarding Capacity on May 3, 2022. In his report, Dr. Walpole states that he treated the A.I.I. continuously since her admission to Regency Hospital of Greenville. Dr. Walpole reports that the A.I.I. suffers from “grossly debilitated, end stage renal disease, seizure disorder, tracheal stenosis + trach dependent, HTN, CAD, Hypothyroidism” and is “unable to provide any care for herself”. Based on his evaluation, Dr. Walpole found the A.I.I. to be incapacitated and recommended that she not retain any of the enumerated rights.

8. The Court Appointed Guardian *ad Litem* (GAL), Jessica Ferguson, filed a Guardian *ad Litem* Report on the morning of the hearing. In her report, Attorney Ferguson found that the A.I.I. is incapacitated and in need of care in a long-term care facility. Having said that, she stated “If there are any long-term care facilities in S.C. that could adequately provide care, the Guardian should first attempt to move the A.I.I. there, before moving her out-of-state away from her family.” The GAL, further recommended that the A.I.I. should only retain the right to vote with all other rights removed.

9. In light of the foregoing, I find that although there is clear and convincing evidence that Respondent Jacqueline Williams is an incapacitated person who is unable to effectively receive, evaluate, and respond to information or make or communicate decisions such that she cannot meet the essential requirements for her physical health, safety, or self-care and cannot manage her property or financial affairs or provide for her support,

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10. However, I find that prior to her incapacity the A.I.I. appointed an agent under a Durable Health Care Power of Attorney; and that agent has been effectively representing the interest of the A.I.I. As such, removal of rights pursuant to S.C. Code Ann. §62-5-304A(A) and the appointment of a Guardian are unnecessary at this time.

11. Additionally, I find that prior to her incapacity the A.I.I. appointed an agent under a Durable Power of Attorney; and that agent has been effectively representing the interest of the A.I.I. As such, the appointment of a permanent Conservator is unnecessary. That being said, I find that the appointment of a Conservator for the purpose of assisting in the application for government benefits to cover the costs of her medical expenses is in order.

12. Further, the proposed Conservator, Jennifer Chastain (“Special Conservator”), is aware of the statutory duties of a Special Conservator as set forth in S.C. Code Ann. §62-5-410 et seq. and has completed all requirements thereunder.

13. I further find that Special Conservator is a fit and proper person to serve in the capacity of Special Conservator for Jacqueline Williams, pursuant to S.C. Code Ann. § 62-5-408.

Based on the foregoing findings, I conclude as follows:

1. This matter is properly before the Court, and the Court has jurisdiction over the parties and the subject matter. Additionally, venue is appropriate in Greenville County.
2. All parties have been properly served with the pleadings.
3. Respondent Jacqueline Williams is an incapacitated person who lacks the capability to make or communicate responsible decisions about her physical health, safety, or care or to manage her property and financial affairs.

4. While Respondent Jacqueline Williams is an incapacitated individual, it is unnecessary to appoint a Guardian for her, because prior to her incapacity, she executed a valid Durable Healthcare Power of Attorney naming Respondent Mary Porter, her mother, to make health care decisions on her behalf. Further, Respondent Porter has effectively represented Respondent Williams' interest.

5. The appointment of a permanent Conservator is unnecessary since Respondent Williams nominated an agent under a Durable Power of Attorney to assist with her financial affairs. That being said, I conclude that Respondent Williams would benefit from the appointment of a Special Conservator for the limited purpose of assisting her in the application for any available government benefits to cover the cost of her medical care.

6. Due to Respondent Jacqueline Williams' incapacity, all of the statutory rights enumerated in §62-5-407(B) shall also be removed from Respondent Jacqueline Williams on a temporary basis during the appointment of a Special Conservator. These rights shall be returned to Respondent Jacqueline Williams upon termination of the appointment of the Special Conservator.

7. Special Conservator is a fit and proper person to serve in the capacity of a Special Conservator for Respondent Jacqueline Williams pursuant to S.C. Code Ann. § 62-5-408.

8. Special Conservator shall have all the powers and duties of a Conservator as set forth in S.C. Code Ann. §62-5-422 and as are otherwise provided under the laws of the State of South Carolina and other applicable laws.

9. Special Conservator will sign the Conservator's Oath and file it with the Court.

10. Special Conservator shall not be required to obtain a bond at this time. If there are ever funds in a Conservatorship account, the Conservator will be required to either post a bond or

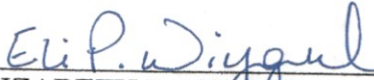
establish a restricted account. Said account shall be held with the designation "Jennifer Chastain, As Special Conservator for Jacqueline Williams (Protected Person)". However, until such time as a bond or restricted account is necessary, the Court will restrict the Conservator's Fiduciary Letters.

11. Any remaining fees and costs for the Guardian ad Litem, Jessica Ferguson, shall be paid by the Petitioner within thirty (30) days of this order if they have not already been paid.

IT IS HEREBY ORDERED; ADJUDGED AND DECREED that Jacqueline Williams is an incapacitated person on a temporary basis and Jennifer Chastain is appointed as her Special Conservator for the limited purpose of applying for government benefits to pay for the cost of her care.

IT IS FURTHER ORDERED that Special Conservator shall be authorized to obtain any necessary information from any and all sources of health insurance coverage for Jacqueline Williams, including, but not limited to, Medicaid and Medicare.

IT IS SO ORDERED.



ELIZABETH P. WIYGUL
Associate Probate Judge

Date: November 1, 2022