

~~The Respondent, William Terry Mitchell, was not present, nor was he represented~~
by an attorney. William Harold Mitchell was present, as was his Guardian ad Litem,
Sarah Ganss Drawdy.

Based on the contents of the Court file, the testimony and other evidence
presented at the hearing and the Initial Report of Guardian ad Litem, I hereby make the
following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. I find that William Harold Mitchell is a citizen and resident of
Anderson County, South Carolina. I also find that this Court has jurisdiction over the
parties and the subject matter contained herein.

2. I find that Anderson County is the appropriate venue
for this matter.

2. I find that William Harold Mitchell was born on August 15, 1927.
I also find that William Harold Mitchell has a wife, Helen Mitchell. I further find that
William Harold Mitchell has two (2) adult children: Freddie R. Mitchell (the Petitioner)
and William Terry Mitchell.

3. I find that William Harold Mitchell and the Respondent, Helen Mitchell,
were married on December 20, 2002.

4. I find that William Harold Mitchell appointed Freddie R. Mitchell
as his attorney-in-fact pursuant to a Uniform Statutory Form financial power of attorney
that was executed on December 22, 2008 and was recorded with the
~~Anderson County Register of Deeds on December 30, 2008 in Book 8975 at page 276.~~

I also find that William Harold Mitchell executed a health care power of attorney on

~~December 22, 2008, listing the Petitioner as an agent and listing the Respondent,~~

William Terry Mitchell, as an alternate agent.

5. I find that the Petitioner filed a Summons and Petition for Finding of Incapacity and Appointment of Guardian and a Summons and Petition for Appointment of Conservator filed by the Petitioner on November 13, 2012. I also find that the Respondent, William Terry Mitchell, accepted service of these pleadings on November 20, 2012. I further find that the Respondent, William Terry Mitchell, filed an Answer on November 21, 2012 requesting that this Court grant the relief being sought by the Petitioner.

6. I find that Linda Pruitt was appointed as the visitor for William Harold Mitchell pursuant to an Order to Send Visitor filed on November 13, 2012. I also find that a Visitor's Report was filed on or about November 28, 2012.

7. I find that Sarah Ganss Drawdy is the Guardian ad Litem for William Harold Mitchell.

8. I find that the Respondent, Helen Mitchell, filed a Motion, a Summons and Petition for Finding of Incapacity and Appointment of Guardian and a Summons and Petition for Appointment of Conservator on December 7, 2013. I also find that the Petitioner filed Answers to these Petitions on December 27, 2012. I further find that the Petitioner filed Amended Answers to these Petitions on January 3, 2013.

9. I find that William Harold Mitchell's physician, Patti J. Paterson, M.D.,
~~wrote a letter, dated October 30, 2012, indicating that William Harold Mitchell~~
"has what appears to be Alzheimer's dementia" and that "he would be at significant risk

~~to have the sole responsibility for investments, money matters or complex decisions.~~

I also find that Sidharth C. Patel, M.D., submitted a Doctor's Affidavit Regarding Capacity, dated November 12, 2012, indicating that William Harold Mitchell was an incapacitated person.

10. I find that the Respondent, Helen Mitchell, and William Harold Mitchell were both personally served with the a Summons and Petition for Finding of Incapacity and Appointment of Guardian and a Summons and Petition for Appointment of Conservator on December 7, 2013. I also find that they were served with the Order Appointing Temporary Guardian and Temporary Conservator on November 13, 2012.

11. I find that William Harold Mitchell resides with the Respondent, Helen Mitchell.

12. I find that William Harold Mitchell is an incapacitated person as defined by S.C. Code §62-5-101 (Law. Co-op. 2009).¹

13. I find that there was testimony that the Respondent, Helen Mitchell, was verbally abusive to Harold Mitchell. I find that Dawn Ayers, the head teller at the TD Bank on South Main Street in Anderson, South Carolina, testified that in or about early November of 2012, the Respondent, Helen Mitchell, was verbally abusive to Harold Mitchell while they were both inside the bank. I find that Ms. Ayers testified that she telephoned the Petitioner and that he came to TD Bank because the Respondent, Helen Mitchell, had threatened to leave him

¹ This section defines an incapacitated person as "any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age ... or other cause ... to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property."

~~at the bank. I find that two (2) persons from the church attended by the Respondent.~~

Helen Mitchell, and William Harold Mitchell, testified that they had never observed any conduct by the Respondent, Helen Mitchell, that was verbally abusive to William Harold Mitchell. I also find that the Respondent, Helen Mitchell, would probably be on her best behavior in a church setting. I further find that the conduct by the Respondent, Helen Mitchell, at the TD Bank in early November of 2012 was clearly not in the best interests of William Harold Mitchell.

14. I find that the Petitioner has been very fair to the Respondent, Helen Mitchell, in repaying her for the monthly expenses incurred by William Harold Mitchell since the Petitioner's temporary appointment on November 13, 2012.

15. I find, based on the authority granted to the Petitioner in the Order Appointing Temporary Guardian and Temporary Conservator, and in an effort to preserve the assets of William Harold Mitchell, the Petitioner has used the funds belonging to William Harold Mitchell in an appropriate manner. I also find that none of the funds has been used in an improper manner.

16. I find that the Guardian ad Litem submitted a thorough written report and recommended that the Petitioner continue to serve as the guardian and conservator for William Harold Mitchell.

17. I find, based on the foregoing, that the Petitioner should continue to serve as the guardian and conservator for William Harold Mitchell.

18. I find that the Respondent, Helen Mitchell, should provide the Petitioner with copies of the actual bills incurred by William Harold Mitchell each month.

~~I also find that the Petitioner should pay these bills within ten (10) days from the date~~

they are received by the Petitioner.

19. I find that William Harold Mitchell receives \$550.00 per month from rental property. I find that the Petitioner should give \$200.00 each month to William Harold Mitchell from his rent proceeds. I find that the remainder of the rent proceeds should be deposited into the conservatorship account. I further find that if William Harold Mitchell needs more than \$200.00 per month as spending money, then the Petitioner should have the right to increase the amount given to William Harold Mitchell each month.

20. I find that if it should become necessary for William Harold Mitchell has to be placed in a nursing home, then the Petitioner should attempt to place him in a nursing home in the area of Honea Path, South Carolina. I also find that this would make it easier for the Respondent, Helen Mitchell, to be able to visit with William Harold Mitchell.

21. I find that if William Harold Mitchell's disease should continue to progress to the point where the Respondent, Helen Mitchell, needs assistance in caring for William Harold Mitchell, then the Petitioner should have the right to hire someone to provide any necessary assistance to the Respondent, Helen Mitchell.

22. I find that all of William Harold Mitchell's funds should be placed in a conservatorship account and that account should be titled "Freddie Mitchell, conservator for William Harold Mitchell." I also find that in lieu of the Petitioner posting a bond, the bank should be allowed to establish a restricted account agreement.

~~23. I find that the Petitioner should prepare a budget for the monthly expenses~~
of the Respondent, Helen Mitchell, and William Harold Mitchell and should provide a copy to this Court.

24. I find that the Petitioner should be allowed to reimburse the Respondent, Helen Mitchell, for the personal funds she used to pay her attorney's fees and costs in this matter.

CONCLUSIONS OF LAW

1. This Court has exclusive jurisdiction over both guardianship and conservatorship proceedings. S.C. Code §62-5-102(a).

2. Venue for both guardianship and conservatorship proceedings is the place where the incapacitated person resides or is present. S.C. Code §§62-5-302 and 62-5-403.

3. An incapacitated person or any other interested person may petition this Court for a finding of incapacity and appointment of a guardian and conservator. S.C. Code §§62-5-303(a) and 62-5-404(a).

4. In guardianship proceedings, the allegedly incapacitated person shall be examined by two examiners, at least one of whom must be a physician, and shall submit their reports in writing to this Court. S.C. Code §62-5-303(b).

5. In conservatorship proceedings, the allegedly incapacitated person shall be examined by one or more physicians. S.C. Code §62-5-407(b).

6. In both guardianship and conservatorship proceedings, the allegedly incapacitated person must be appointed an attorney, who shall have the duties and responsibilities of a Guardian ad Litem in S.C. Code §§62-5-303(b) and 62-5-407(b).

~~7. In guardianship proceedings, a visitor must be sent to the place where the~~
allegedly incapacitated person resides to observe conditions and report in writing
to the Court. S.C. Code §62-5-303(b).

8. Any competent person may be appointed as guardian.
S.C. Code §62-5-311(A).

9. The priorities for appointment of a guardian are set forth in
S.C. Code §62-5-311.

10. The priorities for appointment of a conservator are set forth in
S.C. Code §62-5-410.

11. A guardian of an incapacitated person has the same powers,
rights and duties respecting his ward that a parent has respecting his
unemancipated minor child, except that a guardian is not liable to third persons for acts of
the ward solely by reason of the parental relationship. S.C. Code §62-5-312(A).

12. This Court has the authority not to require a conservator to post a bond.
S.C. Code §62-5-411.

Therefore, based on the foregoing Findings of Fact and Conclusions of Law,
it is hereby **ORDERED, ADJUDGED AND DECREED**

1. That the Petitioner shall continue to serve as the guardian and conservator
for William Harold Mitchell.

2. That the Respondent, Helen Mitchell, shall provide the Petitioner with
copies of the actual bills incurred by William Harold Mitchell each month.

That the Petitioner shall pay these bills within ten (10) days from the date
they are received by the Petitioner.

3. That the Petitioner shall give \$200.00 each month to William Harold Mitchell from his rent proceeds. That the remainder of the rent proceeds shall be deposited into the conservatorship account. That if William Harold Mitchell needs more than \$200.00 per month as spending money, then the Petitioner shall have the right to increase the amount given to William Harold Mitchell each month.

4. That if it should become necessary for William Harold Mitchell has to be placed in a nursing home, then the Petitioner shall attempt to place him in a nursing home in the area of Honea Path, South Carolina.

5. That if William Harold Mitchell's disease should continue to progress to the point where the Respondent, Helen Mitchell, needs assistance in caring for William Harold Mitchell, then the Petitioner shall have the right to hire someone to provide any necessary assistance to the Respondent, Helen Mitchell.

6. That all of William Harold Mitchell's funds shall be placed in a conservatorship account and that account shall be titled "Freddie Mitchell, conservator for William Harold Mitchell." That in lieu of the Petitioner posting a bond, the bank shall be allowed to establish a restricted account agreement.

7. That the Petitioner shall prepare a budget for the monthly expenses of the Respondent, Helen Mitchell, and William Harold Mitchell and shall provide a copy to this Court.

8 That the Petitioner shall be allowed to reimburse the Respondent, Helen Mitchell, for the personal funds she used to pay her attorney's fees and costs in this matter.

IT IS SO ORDERED this 24th day of February, 2013 in Anderson, South Carolina.

Martha D. Newton
Martha D. Newton
Probate Judge
Anderson County

ATTORNEYS AND COUNSELORS AT LAW

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230 WEST WHITNER STREET
ANDERSON, SOUTH CAROLINA 29622

WILLIAM N. EPPS, JR.
SAMANTHA P. NELSON *
WILLIAM N. EPPS, III
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*Also Admitted in Georgia

July 25, 2013

Mr. Richard Shirley
Clerk of Court for Anderson County
Post Office Box 8002
Anderson, South Carolina 29622

Re: Freddie R. Mitchell vs Helen Mitchell and William Terry Mitchell
In Re: William Harold Mitchell
Case No.: 2013-CP-04-00471
Our File No.: M13-2428

Dear Mr. Shirley:

Enclosed for filing in the above referenced matter please find the Notice of Appeal.
Please provide our office with a clocked copy of same. Should you have any questions, please do
not hesitate to call.

With kind regards,

Sincerely yours,

EPPS, NELSON & EPPS


W. N. Epps, Jr.

WNE:jr/lll

cc: The Hon. Jenny A. Kitchings, Clerk SC Court of Appeals
William E. Phillips, Attorney for Freddie R. Mitchell
William Terry Mitchell, Pro Se
Sarah G. Drawdy, Guardian ad Litem

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JUL 30 2013

SC COURT OF APPEALS

ATTORNEYS AND COUNSELORS AT LAW

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ANDERSON, SOUTH CAROLINA 29622

WILLIAM N. EPPS, JR.
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July 25, 2013

Honorable Martha D. Newton
Anderson County Probate Judge
Post Office Box 8002
Anderson, South Carolina 29622

RECORDED
JUL 30 2013
SC COURT OF APPEALS

Re: Freddie R. Mitchell vs Helen Mitchell and William Terry Mitchell
In Re: William Harold Mitchell
Case No.: 2013-CP-04-00471
Our File No.: M13-2428

Dear Judge Newton:


I respectfully request a copy of the Transcript from the hearing held on January 31, 2013 before you in regards to the above referenced matter. Your prompt attention to this matter is greatly appreciated.

Should you have any questions, please do not hesitate to call.

With kind regards,

Sincerely yours,

EPPS, NELSON & EPPS


W. N. Epps, Jr.

WNE:jr/lll

cc: The Hon. Jenny A. Kitchings, Clerk SC Court of Appeals
William E. Phillips, Attorney for Freddie R. Mitchell
William Terry Mitchell, Pro Se
Sarah G. Drawdy, Guardian ad Litem