

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

J. TRAVIS LASTER
VICE CHANCELLOR

New Castle County Courthouse
500 N. King Street, Suite 11400
Wilmington, Delaware 19801-3734

Date Submitted: August 12, 2011

Date Decided: August 25, 2011

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RE: *In the Matter of Beulah Williams, a Disabled Person,*
C.M. No. 04193-N-VCL

Dear Counsel and Ms. Williams:

This matter concerns the guardianship of Beulah Williams, a 93-year-old woman who currently resides in a nursing home run by the Home of Merciful Rest Society, Inc., doing business as Kentmere Nursing Care Center (“Kentmere”). On June 3, 2011, then-Master, now-Vice Chancellor Glasscock issued a Final Report removing Doretha Williams, Beulah’s daughter, as guardian of Beulah’s person. Throughout this case, the Master provided Doretha, who is proceeding *pro se*, with significant procedural leeway by granting multiple extensions and considering her late, improper, and voluminous submissions. I have done the same and have deemed Doretha’s letter filed on June 6, 2011 as a notice of exception to the Final Report and opening brief for purposes of Court of Chancery Rule 144(a)(1). Because the resolution of this matter does not involve a dispositive credibility determination, a new hearing is not required. *See DiGiacobbe v. Sestak*, 743 A.2d 180, 184 (Del. 1999). After a *de novo* review of the record, I reach the same factual findings and legal conclusions as the Master. The exceptions to the Final Report are therefore denied, and the Final Report is confirmed.

FACTUAL BACKGROUND

Beulah suffers from a variety of ailments, including complications from stroke, hypertension, neuropathy, and Alzheimer's dementia. Doretha has been Beulah's guardian since 2006. On June 17, 2010, Kentmere sought guidance from the Court concerning Beulah's care and expressed concern that Doretha was, among other things, withholding or delaying medical treatments recommended by Beulah's attending physician, Dr. Ritu Rastogi, and refusing to provide information to Kentmere staff regarding Beulah's medical treatments. The Master appointed Suzanne Seubert, Esquire, attorney *ad litem* to investigate the issues Kentmere raised. A hearing to address the issues was scheduled for February 23, 2011. Before the hearing, however, Doretha sent letters to the Court alleging that Kentmere was starving and "drugging" Beulah. The Master held an emergency hearing on January 13, 2011, but did not fully reach the allegations of improper conduct because Doretha indicated that she wished to bring Beulah home to live with her. The Master directed the attorney *ad litem* and the Court's guardianship monitor to facilitate the move, but Doretha took no substantial steps to remove Beulah from Kentmere.

On February 24, 2011, Kentmere asked the Court to consider removing Doretha as Beulah's guardian. Kentmere alleged that Doretha was interfering with Beulah's care at Kentmere by opposing Dr. Rastogi's dietary and medical recommendations and by accusing Kentmere of trying to kill Beulah, falsifying documents, and engaging in "cover ups" to hide their misconduct. Also on February 24, the attorney *ad litem* sought an order authorizing Kentmere to provide Beulah with the pureed food diet and blood pressure medication recommended by Beulah's doctor, despite Doretha's failure to consent to these actions. The Master entered an interim order granting the relief requested by the attorney *ad litem*.

The Master heard the applications on March 7, 2011. Kentmere presented evidence that Doretha was interfering with Beulah's care by withholding or delaying consent to, and otherwise obstructing, the dietary and medical recommendations of Dr. Rastogi. Doretha responded with numerous complaints about Kentmere and allegations that Kentmere's and Dr. Rastogi's actions were designed to harm Beulah in retaliation for Doretha's complaints. Much of the evidence presented at the hearing focused on the pureed food diet recommended for Beulah by Dr. Rastogi. At the conclusion of the hearing, the Master directed the attorney *ad litem* to retain a doctor to conduct an independent medical examination of Beulah and to address whether the care Beulah was receiving at Kentmere, including the pureed food diet, was appropriate.

Following the March 7 hearing, Doretha continued to contact the Court by letter and phone to make accusations against Kentmere, including that the pureed food diet was not in Beulah's best interest, that Kentmere was attempting to starve Beulah, and that a

brief quarantine of Kentmere because of a stomach flu outbreak was a sham to keep Doretha away from Beulah. The Master directed the guardianship monitor to investigate Doretha's allegations. The guardianship monitor's report, filed with the Court on March 15, 2011, found that none of Doretha's allegations could be substantiated. Further, a swallowing study performed at St. Francis Hospital and filed with the Court on March 28, 2011 recommended independently that Beulah have a "pureed diet and thin liquids." Dr. David Simpson conducted an independent examination of Beulah. His report recommended a change in Beulah's blood pressure medication, but failed to support Doretha's allegations.

On April 1, 2011, the attorney *ad litem* filed a petition with the Court alleging that Doretha had taken Beulah from her room to a public bathroom at Kentmere and there fed her non-pureed chicken. In a response letter, Doretha failed to deny that she fed Beulah non-pureed food in the bathroom. Instead, Doretha argued that her actions did not violate the Court's instructions, that she did not agree that Beulah should be on a pureed food diet, and that the results of the swallowing study performed at St. Francis Hospital were "fraudulent." On April 13, 2011, the Master ordered Doretha not to feed Beulah any food other than pureed food, and not to feed Beulah in the bathroom under any circumstances.

LEGAL ANALYSIS

This Court may, in its discretion, "remove a guardian for any sufficient cause." 12 *Del. C.* § 3908(a); see *In re Harris*, 2003 WL 22843905, at *1 (Del. Ch. Nov. 14, 2003). "Ultimately, a guardian must act with competency, rationality, and integrity and in a manner that meets the best interests of the disabled person." *Harris*, 2003 WL 22843905, at *1. The record clearly shows that it is not in Beulah's best interest for Doretha to continue as guardian of her person.

During the evidentiary hearing, Dr. Rastogi testified that Doretha would not allow Beulah to take medication to relieve pain,¹ would not consent to a pureed food diet for Beulah,² would not allow needed changes to Beulah's blood pressure medication,³ would not inform Kentmere of the findings of other doctors whom she took Beulah to see,⁴ and would not permit tests required to determine if a mass on Beulah's jaw was cancerous.⁵ Doretha did not dispute this testimony. She also did not dispute that she fed Beulah non-pureed chicken in a public bathroom at Kentmere. The results of the St. Francis hospital

¹ Transcript of March 7, 2011 hearing at 31-33.

² Tr. at 34-38

³ Tr. at 38-41.

⁴ Tr. at 43-45.

⁵ Tr. at 41-43.

swallowing study accord with Dr. Rastogi's recommendations. Dr. Simpson's report likewise agrees with Dr. Rastogi's recommendations in all material respects.

Doretha testified to her beliefs that Kentmere was "drugging" Beulah,⁶ that Beulah should not be on a pureed food diet,⁷ that Dr. Rastogi was trying to harm Beulah in retaliation against Doretha,⁸ that portions of Beulah's medical records were fraudulent,⁹ and that an "alliance" of people were working against her and her mother.¹⁰ Doretha said she would refuse to authorize a video swallowing study of Beulah because she believed that whatever doctor the hospital asked to perform the test would fabricate results to support Kentmere's actions.¹¹ When asked if there was a doctor in Wilmington she would trust to give a second opinion, Doretha replied: "No. We're in Delaware."¹²

I agree with the Master's conclusion that Doretha sincerely believes she is acting in Beulah's best interest. I likewise agree with the Master that Doretha's beliefs are not rational in light of the overwhelming evidence in the record demonstrating that Beulah is receiving appropriate care at Kentmere.

The undisputed facts, including Doretha's own testimony, establish that Doretha is interfering with Beulah's care. Furthermore, Doretha's testimony and submissions to the Court after the Final Report indicate strongly that the interference will continue. For example, Doretha asserted in letters to the Court that Kentmere is continuing to harm Beulah intentionally to retaliate against Doretha. She also asserted that the hostile "alliance" now encompasses the Court, Kentmere, the attorneys involved in this case, and unidentified computer hackers stationed at the public libraries in New Castle County who allow members of the "alliance" to read Doretha's letters before they are submitted.¹³ I can readily confirm that the Court is not a member of any such alliance. Nevertheless, I agree with the Master that Doretha's heartfelt belief in the existence of the "alliance" and her perceived need to protect Beulah will lead Doretha to continue to interfere with Beulah's care.

⁶ Tr. at 180.

⁷ Tr. at 188-93.

⁸ Tr. at 59-60, 180 ("THE COURT: Your complaints are that your mother was receiving medicine that made her sleep, and you think that's in retaliation for your complaints. Is that what you're saying? [DORETHA]: Yes, it is. Yes.").

⁹ Tr. at 214-15.

¹⁰ Tr. at 195-96, 217.

¹¹ Tr. at 216-18.

¹² Tr. at 218.

¹³ See, e.g., Ltr. from Doretha Williams filed July 28, 2011 at 15, 38; Ltr. from Doretha Williams filed August 12, 2011 at 5, 8.

CONCLUSION

After a *de novo* review of the record, I agree with the Master's finding that it is not in Beulah's best interest for Doretha to serve as guardian of Beulah's person. I also agree with the Master's decision to appoint the Public Guardian as successor guardian for Beulah's person. Doretha's exceptions to the Final Report are therefore denied, and the Final Report is confirmed. **IT IS SO ORDERED.**

Very truly yours,

/s/ J. Travis Laster.

J. Travis Laster
Vice Chancellor