

Britney Spears would have more protections in Summit County courts, and so do you

Judge Elinore Marsh Stormer

Recent national media reports reveal a series of horrific issues around guardianships. Getting the most coverage is Britney Spears, a pop star under a “conservatorship” which allows her father to control her finances and personal choices. Spears has gone public with her desire to end the control and so far, the judge has denied her request. Headlines say “Fix system or baby boomers are doomed to Britney’s fate” (Beacon Journal, July 21). In addition, there is a Netflix movie, “I Care a Lot” where a ruthless guardian abuses her wards.

Is this the same scenario for people in Summit County? Actually, no.

If Spears lived in Summit County, it might be very different for her. We don’t really know why she remains under a “conservatorship.” In California, as here, issues concerning mental health are confidential and cannot be accessed by the public. The guest column by a lawyer from California highlighted the many problems she witnesses in LA. She recommended “Training, supervision and accountability at all levels.” I agree, and am happy to report that people in Summit County are much better protected than those in the public eye right now.

First, let me differentiate between a “conservatorship” and a “guardianship” in Ohio. Here, a conservatorship is designed for an individual with physical or some mental limitations, but who remains “competent.” Our system requires that person to AGREE to the conservatorship – it cannot be forced upon them. There are two types: over a person where the conservator makes personal decisions or over the estate where the conservator controls and protects the

assets. Or, it can be both, but again, in Summit County, Britney would have to agree and could stop it at any time.

A “guardianship” is for a person so mentally impaired and medically in need that they are incapable of taking proper care of themselves or their property. In other words, they are found to be “incompetent.” This requires statements from the potential ward’s doctor at a full hearing. Before it can order a guardianship, the court must find by clear and convincing evidence that the person needs the protection of such a change to their liberty rights. And those under guardianship retain the right to make decisions as long as they do not endanger their health or well-being even when others might find their choices troublesome. They have the right to make their own mistakes.

In both conservator and guardian cases, the person asking to take on the decision making role has to apply, pass a background check, appear at a hearing, and complete initial and ongoing training (proven to the Probate Court). The potential ward may agree or disagree. If he or she disagrees, the court appoints a lawyer to represent the ward and to request an independent competency exam, all at the court’s expense. We have a rotating list of lawyers who take these cases for a set fee; each lawyer has extensive litigation experience, a heart for the vulnerable and a record of zealous advocacy. Or, they are free to hire the lawyer of their choice.

If the court finds the applicant is not able to handle the responsibility or if there is a lot of conflict between applicants, we may ask that a lawyer apply. If, for a “person only” and the ward is indigent, the Volunteer Guardian program may apply. We are always open to additional lawyers and recruit at Bar Association meetings. So, there is no “secret list” of favorite lawyers as in LA. Lawyers with more than 10 wards are required to report that to the court every year and it is a public record.

Every year, every guardian, including lawyers, must complete additional training and file a report on the status of the ward. If they also oversee finances as part of the ward's "estate," they must file an annual accounting with receipts, which is scrutinized by our accounting section. No one can spend money without court authorization. Guardians who fail to follow our procedures can be removed and we do not hesitate to remove guardians for those failures. When money is involved, the guardian is bonded against bad acts and will be held personally liable.

In addition, in non-COVID years, every ward who lives in an extended care facility gets a visit from a volunteer Senior Visitor who files an independent report with the court. COVID blocked our planned expansion to set up visits for those who do not live in an ECF, but we are back on track and hope to have a full program of visitors soon. Anyone reading this who is interested in volunteering can check out our website, www.summitohioprobate.com, for more information.

Finally, anyone — a ward, a concerned family member, or friend — can complain directly to the court about any aspect of the guardianship using the form highlighted in a button on our website. When this happens, we launch an investigation, review the case and take appropriate action, including removing the guardian or terminating the guardianship.

Summit County Probate Court engages a highly trained, professional staff to touch each aspect of conservatorship or guardianship. We embrace accountability and transparency. We have terminated conservatorships or guardianships when the ward regains the ability to look after themselves or their money. I'm not saying Britney would be "free," but her wishes would have been repeatedly considered and her complaints for release set for a hearing in the first instance. So, no; no one is doomed.

Elinore Marsh Stormer is the judge for Summit County Probate Court.