

1                                   **IN THE COURT OF APPEALS FOR THE STATE OF NEVADA**

2  
3   IN THE MATTER OF THE GUARDIANSHIP  
4   OF: CHRISTINE B. JOHNSON, A/K/A  
5   CHRISTINE B. WEIDERMAN, AN ADULT  
6   PROTECTED PERSON,

7   CHRISTINE B. JOHNSON, A/K/A  
8   CHRISTINE B. WEIDERMAN,

9                   Appellant,

10   *vs.*

11   KAREN KELLY, CLARK COUNTY PUBLIC  
12   GUARDIAN; AND MOUNTAIN VIEW  
13   CARE CENTER,

14                   Respondents.

Court of Appeals No. 83912-  
COA

Electronically Filed  
Apr 20 2022 10:40 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

15                                   **APPEAL**

16                   From the Eighth Judicial District Court, Clark County  
17                   The Honorable Linda Marquis, District Judge  
18                   District Court Case No. G-21-055340-A

19                                   **APPELLANT'S APPENDIX**

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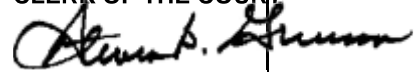
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APPELLANT’S APPENDIX: VOLUME II



1 MSTY

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**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the matter of the Guardianship of the Person  
and Estate of:

CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN,

Adult Protected Person.

**Case No.: G-21-055340-A**

**Dept. No.: B**

**HEARING REQUESTED**

**MOTION TO STAY AMENDED ORDER ESTABLISHING GUARDIANSHIP OF THE  
PERSON AND ESTATE AND FOR ISSUANCE OF LETTERS OF GENERAL  
GUARDIANSHIP (SUMMARY ADMINISTRATION) PENDING APPEAL**

Adult Protected Person, Christine B. Johnson ("Christine"), by and through her counsel,  
Katie Anderson, Esq., of Legal Aid Center of Southern Nevada, Inc., respectfully requests this  
Court to stay its Amended Order Establishing Guardianship of the Person and Estate and for  
Issuance of Letters of General Guardianship ("Order Appointing Guardian") filed on November  
10, 2021 pending resolution of the appeal filed on December 07, 2021.

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1 This Motion is based on NRAP 8(a)(1), the following Memorandum of Points and  
2 Authorities, and any other evidence this Court may wish to consider.

3 DATED this 13<sup>th</sup> day of December 2021.

4 **LEGAL AID CENTER OF**  
5 **SOUTHERN NEVADA, INC.**

6 /s/ Katie Anderson

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## MEMORANDUM OF POINTS AND AUTHORITIES

### **I. INTRODUCTION**

How one chooses to spend their last days is perhaps the most intimate and personal set of decisions that they can make in their lifetime. A person may be faced with choices like whether to spend their last days in the comfort of their home surrounded by loved ones, or perhaps in a facility/hospital; whether to receive or deny life-sustaining treatment if there is no hope for recovery; and what will happen with their remains upon their passing. Deeply personal decisions like these are oftentimes shaped by a person's life experiences and morals, and therefore, in many ways are a culmination of the life they lived. Sadly, in this case, Christine must live the last of her days keenly aware that this Court stripped her of the autonomy to make these profound decisions for herself and instead handed someone she has never met before, a public guardian, the authority to make those decisions for her.

Christine vehemently objected to the Court appointing a guardian over her person and estate, nonetheless, the Court appointed the Clark County Public Guardian over Christine's objection and without giving Christine the opportunity to present favorable evidence and confront adverse witnesses at an evidentiary hearing. Put simply, the Court robbed Christine of her autonomy without due process just as she is nearing the end of her life.

To make matters worse, this Court's order rests on a fundamental misunderstanding of what ALS (amyotrophic lateral sclerosis) entails. ALS is a neurodegenerative disease that affects nerve cells that are responsible for controlling voluntary muscle movements, like those that dictate our ability to walk, talk, and chew.<sup>1</sup> "Because people with ALS usually can perform

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<sup>1</sup> See National Institute of Neurological Disorders and Strokes, *Amyotrophic Lateral Sclerosis (ALS) Fact Sheet*, National Institute of Neurological Disorders and Strokes, <https://www.ninds.nih.gov/Disorders/Patient-Caregiver-Education/Fact-Sheets/Amyotrophic-Lateral-Sclerosis-ALS-Fact-Sheet> (last visited December 7, 2021).

1 higher mental processes such as reasoning, remembering, understanding, and problem solving,  
2 they are aware of their progressive loss of function and may become anxious and depressed.”<sup>2</sup>  
3 Eventually, most people with ALS lose control over the muscles in their chest and die from  
4 respiratory failure. The record here simply does not support the finding that Christine is “unable  
5 to receive and evaluate information” such that she is incapacitated.

6 Christine is well aware of the autonomy that she has lost now that she the Court has  
7 forced into a guardianship against her will. The paternalistic act of appointing a guardian over  
8 Christine does nothing but take her freedom and sense of personhood away from her as she nears  
9 the end of her life. Christine deserves the dignity to dictate how she spends what little time she  
10 has left. Therefore, this Court should stay its order appointing guardian pending appeal.

## 12 II. BACKGROUND

13 On August 23, 2021, Petitioner filed its Petition for Appointment of Clark County Public  
14 Guardian as a General Guardian of the Person and Estate and for Issuance of Letters of  
15 Guardianship (“Petition”). Christine Johnson, the protected person, filed her Opposition to the  
16 Petition on September 17, 2021. At the September 23, 2021 Citation Hearing, this Court stated  
17 that it would appoint an investigator and continue the Citation Hearing. The Order to Appoint  
18 Investigator was entered on September 27, 2021, and a subsequent Amended Order to Appoint  
19 Investigator was later entered on October 21, 2021. This Court appointed the investigator to  
20 obtain APS records from North Dakota and Clark County regarding Christine. The investigator  
21 filed her report on November 02, 2021. The investigator’s report described one APS report in  
22 North Dakota and one in Clark County, and that the North Dakota guardianship case regarding  
23 Christine appeared to be closed. The only exhibits to the investigator’s report were filings from  
24 the brief North Dakota case.

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28 <sup>2</sup> *Id.*

1 The Physician's Certificate in this case stated that Christine was diagnosed with  
2 Amyotrophic Lateral Sclerosis (ICD code G12.21); Quadriplegia, unspecified (ICD code  
3 G82.50); Neuromuscular dysfunction of bladder, unspecified (ICD code N31.9); Abnormal  
4 findings of cerebrospinal fluid (ICD code R83); and Major Depressive Disorder (ICD code  
5 F32.9). Aside from major depressive disorder, the other diagnoses are listed as physical  
6 diagnoses, and it cannot be ascertained from the Physician's Certificate what the physician  
7 believed affected Christine's capacity. What's more, that same physician determined that  
8 Christine had the capacity to execute a POLST (Provider Order for Life Sustaining Treatment),  
9 about two months before the Petitioner filed for guardianship. *See POLST*, attached hereto as  
10 **Exhibit 1**. The physician, Craig Jorgenson, did not opine that Christine is unable to receive and  
11 evaluate information; instead, the physician opined that Christine "is unable to make or  
12 communicate decisions to such an extent that the patient lacks the ability to meet essential  
13 requirements for physical health, safety, or self-care without proper assistance." *See Physician's*  
14 *Certificate*, attached hereto as **Exhibit 2**, at 2. However, it is not clear from the record what steps,  
15 if any, medical providers took to communicate effectively with Christine. It is common for  
16 people with ALS to experience difficulties speaking, but when that happens, assistive  
17 technologies can provide an avenue for people with ALS to communicate.<sup>3</sup> The record does not  
18 demonstrate whether assistive technologies were used nor how much time Dr. Craig Jorgenson  
19 spent trying to communicate with Christine.

20 To refute the conclusive allegations in the Physician's Certificate regarding her capacity,  
21 Christine provided exhibits demonstrating that she did not lack capacity. For instance, Christine  
22

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23 <sup>3</sup> *See Augmentative Communication*, ALS Association, <https://www.als.org/navigating-als/living-with-als/therapies-care/augmentative-communication> (last visited December 08, 2021); *Assistive Technology*, ALS Association, <https://www.als.org/research/research-we-fund/scientific-focus-areas/assistive-technology> (last visited December 08, 2021) (describing means such as speech generating devices, eye gaze control systems, writing tablets, etc.).

1 provided documents from the Petitioner’s facility showing that Christine voluntarily signed  
2 herself in and signed various documents relevant to her medical care like the POLST that was  
3 certified by Dr. Craig Jorgenson; that medical staff at the facility described Christine as “alert  
4 and oriented” and stated that she “answers all questions appropriately” as recently as June 28,  
5 2021; and that Christine was administered a BIMS (Brief Interview of Mental Status) test in  
6 which she “scored a 15/15 indicating no cognitive impairment.” Importantly, the Physician’s  
7 Certificate, and other filings from Petitioner, do not assert that there was a sudden decline in  
8 Christine’s health necessitating a guardianship. Coincidentally, it was not until Christine began  
9 stating that she wanted to leave Petitioner’s facility and return home with her fiancé that the  
10 facility suddenly decided to file its Petition.  
11

12         At the continued citation hearing, Christine’s counsel argued that the medical information  
13 available to the Court demonstrated that Christine has capacity. Therefore, counsel argued,  
14 Petitioner failed to meet its burden to show by clear and convincing evidence that a guardianship  
15 was necessary; and alternatively, that if this Court was not inclined to dismiss the petition, it  
16 should set an evidentiary hearing so that Christine can confront adverse witnesses and present  
17 favorable evidence. Nonetheless, with conflicting information regarding Christine’s capacity,  
18 this Court still held that Petitioner met its burden to show by clear and convincing evidence that  
19 a guardianship is necessary, and that, Christine is “incapacitated” as defined by NRS 159.019.  
20 Without having the opportunity to fully present her side, this Court forced Christine under the  
21 constraints of an unwanted guardianship.  
22  
23

### 24                   **III.     LEGAL STANDARD FOR MOTION TO STAY**

25         Typically, a party must first move in the district court for stay of an order pending appeal  
26 before it can request a stay from the appellate court. NRAP 8(a)(1)(A). When determining  
27 whether to grant a request for stay, the Court must consider the following factors:  
28



1 (1) whether the object of the appeal will be defeated if the stay is denied; (2)  
2 whether appellant will suffer irreparable or serious injury if the stay is denied; (3)  
3 whether respondent will suffer irreparable or serious injury if the stay is granted;  
4 and (4) whether appellant is likely to prevail on the merits in the appeal.

5 *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89 P.3d 36, 38 (2004). No one factor  
6 carries more weight than another, but the Nevada Supreme Court has recognized that if one or  
7 two factors are especially favorable to the appellant, they may counterbalance other weak factors.  
8 *See id.* (citing *Hansen v. Eighth Judicial Dist. Court*, 116 Nev. 650, 659, 6 P.3d 982, 987 (2000)).

9 These factors weigh heavily in Christine's favor. Christine is currently suffering from  
10 ALS, a progressive nervous system disease for which there is currently no cure. To be blunt,  
11 Christine might have little time left depending on how the disease progresses, and so the object  
12 of the appeal will ultimately be defeated if Christine passes while the appeal is pending. Ignoring  
13 Christine's wishes at a time when her wishes should be vehemently honored is causing  
14 irreparable harm to Christine. She might inevitably spend the last of her days under a  
15 guardianship that she does not want nor need. Conversely, there is no harm at all to the Clark  
16 County Public Guardian or the Petitioner if this Court grants a stay. Finally, Christine is likely  
17 to prevail on the merits of her appeal because her due process rights were violated when this  
18 Court appointed a guardian despite the existence of disputed facts regarding Christine's capacity,  
19 and before Christine had an opportunity to confront adverse witnesses at an evidentiary hearing,  
20 and because this Court abused its discretion. Moreover, this Court's order is based on a flawed  
21 interpretation of *Matter of Guardianship of Rubin*, 137 Nev. Adv. Op. 27, 491 P.3d 1 (2021).<sup>4</sup>

#### 22 23 IV. ARGUMENT

##### 24 A. The Object of the Writ Petition Will Be Defeated if the Stay is Denied.

25 While there is no telling whether Christine will pass away or whether her condition will  
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<sup>4</sup> Hereinafter referred to as "*Rubin*."

1 worsen to the point where she cannot express her wishes during the pendency of the appeal, her  
2 medical information from providers demonstrates that her condition will only continue to worsen  
3 as time goes on. Most concerning, on December 05, 2021, Christine was transported to Spring  
4 Valley Hospital for treatment of pneumonia. *See Email from Clark County Public Guardian,*  
5 attached hereto as **Exhibit 3**. Christine’s case manager with the Clark County Public Guardian  
6 has stated, “she’s not doing well,” doctors are recommending that her “code status be changed  
7 to DNR,” and that she is “appropriate for inpatient hospice services.” *See Email from Clark*  
8 *County Public Guardian,* attached hereto as **Exhibit 4**. As of the filing of this motion, Christine  
9 remains in Spring Valley Hospital battling pneumonia, which is one of the leading causes of  
10 death for people with ALS given their decreased respiratory capacity.<sup>5</sup>

12 Christine is well aware of how dire her conditions are. ALS is an always-fatal  
13 neurodegenerative disease that will result in the person’s brain losing connection with their  
14 muscles, and eventually a person with ALS will “lose their ability to walk, talk, eat, and  
15 eventually breathe.”<sup>6</sup> Christine is aware that there is no cure for ALS and that the average life  
16 expectancy for someone with ALS is anywhere from 2-5 years.<sup>7</sup> Christine was diagnosed with  
17 ALS on or around January 2021, and while she is currently able to communicate, express her  
18 wishes, and direct counsel regarding the guardianship case, there might come a time soon when  
19 she will not be able to do those things, or she might pass away. To this point, medical  
20 professionals involved in Christine’s care have opined that her ALS diagnosis “**will most likely**  
21 **result in her death within the next 6 to 12 months[.]**” *See Discharge Documentation from*  
22 *Boulder City Hospital,* attached as **Exhibit 5** (emphasis added); *see also History and Physical*  
23

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26 <sup>5</sup> See ALS Worldwide, *Avoiding Pneumonia*, <https://alsworldwide.org/care-and-support/article/avoiding-pneumonia> (last visited on December 8, 2021).

27 <sup>6</sup> See ALS Association, *What is ALS?*, <https://www.als.org/understanding-als/what-is-als> (last  
28 visited on November 30, 2021).

<sup>7</sup> See *id.*

1 *Reports from Boulder City Hospital*, attached as **Exhibit 6**. And her recent diagnosis of  
2 pneumonia is an obvious cause for serious concern.

3 If this Court denies a stay, Christine will be left under the constraints of a guardianship  
4 to which she vehemently objects for what little time she has left. Moreover, precious time is now  
5 passing during which Christine could put alternatives to guardianship in place to ensure that  
6 everyone involved in her care understands and respects her wishes. Instead, she is now stripped  
7 of her autonomy and her decisions are at the behest of the Clark County Public Guardian, which  
8 Christine has made clear she does not want. During the pendency of the appeal, it is likely that  
9 Christine's condition will worsen to the point where she no longer can express her wishes  
10 (although she is not at that point yet), or she could pass away. If that were the case, the purpose  
11 of this appeal would be defeated because Christine will have been stripped of what little time  
12 she had left to exercise her autonomy. A victory on appeal would then be nothing more than a  
13 moral victory that provides no tangible benefit to Christine who wants nothing more than to have  
14 her wishes honored as she nears the end of her life.  
15  
16

17 Therefore, the purpose of this appeal—to release Christine from the constraints of  
18 guardianship and allow her to remain autonomous during the end of her life—will be defeated if  
19 this Court does not issue a stay, considering the severity of Christine's condition.  
20

21 **B. Christine Will Suffer Irreparable Harm if the Stay is Denied**  
22 **Because She Will be Forced to Spend What Might Little Time She**  
23 **Has Left Forced Into a Guardianship She Does Not Want.**

24 The irreparable harm to Christine snowballs each day that she remains restrained under  
25 the current guardianship against her wishes. With what little time Christine has left, she would  
26 like to live her life as she sees fit, even if the Clark County Public Guardian, this Court, and/or  
27 the original petitioner, disagree with her decisions. Regardless of whether anyone agrees or  
28 disagrees with her decisions, Christine should have the freedom to live her last days the way that  
she wants without the unwanted intrusion of a court-ordered guardianship. *See Planned*

1 *Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 851 (1992) (“At the heart of  
2 liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of  
3 the mystery of human life. Beliefs about these matters could not define the attributes of  
4 personhood were they formed under compulsion of the State.”).

5 As this Court is aware, placing a person under guardianship essentially strips them of  
6 their personhood and liberty, and allows a court-appointed guardian to dictate their life. While  
7 the Nevada Legislature has put statutory protections in place in recent years to preserve the rights  
8 and freedoms of protected persons, this Court should not take lightly the impact that a  
9 guardianship has on the protected person’s life and sense of personhood. Especially in a case  
10 like Christine’s, where the protected person can understand and participate in the proceedings  
11 and can express her wishes.  
12

13 As one court put it, a person placed under guardianship is robbed of “[m]any decisions  
14 that define the essence of an individual, such as where she resides, what medical treatment she  
15 undergoes or refuses, whom she marries, where she works, what she purchases.” *In re Zhuo*, 42  
16 N.Y.S.3d 530, 536 (2016). Once placed under a guardianship, the person will “have lost the  
17 freedom to govern her own affairs, to shape her own life as she thinks best, and to participate  
18 fully in society without the permission of another.” *Id.* Those liberties were taken from Christine  
19 not at a time when she is incapacitated, but rather, at a time when she fully understands the  
20 deprivation she is experiencing. With each passing day, Christine must live with both the  
21 inevitable fate of her diagnosis and the weight of a guardianship imposed against her will.  
22

23 The harm to Christine and her psyche is irreparable, and continues to be irreparable, each  
24 day that she is restrained under this guardianship.  
25

26 **C. The Clark County Public Guardian and the Facility Will Suffer No Harm**  
27 **if This Court Stays its Order.**

28 The Clark County Public Guardian is a governmental entity that serves when appointed

1 by the district court. It has no particular interest in serving as guardian in this case, and will likely  
2 take no position in regards to whether or not this Court should have appointed it as guardian.  
3 And Petitioner certainly will suffer no harm if this Court's order is stayed.

4 **D. Christine is Likely to Prevail on the Merits of Her Appeal Because Her Due**  
5 **Process Rights were Violated Considering that She Was Never Given an**  
6 **Opportunity to Refute Petitioner's Evidence, and Because this Court Abused**  
7 **its Discretion When it Found that Christine was "Incapacitated."**

8 When moving for a stay, the appellant does not have to show a probability of success on  
9 the merits, but rather, has to "present a substantial case on the merits when a serious legal  
10 question is involved and show that the balance of equities weighs heavily in favor of granting  
11 the stay." *Hansen*, 116 Nev. at 659, 6 P.3d at 987 (quoting *Ruiz v. Estelle*, 650 F.2d 555, 565  
12 (5th Cir. 1981)). Here, Christine presents a substantial case on the merits, and the equities weigh  
13 in her favor given that this appeal centers on her pleas for the district court to respect her wishes  
14 as she nears the end of her life.

15 1. **This Court abused its discretion when it found that Christine was**  
16 **"incapacitated."**

17 The district court abuses its discretion when its decision rests on "on a clearly erroneous  
18 factual determination or it disregards controlling law." *MB America, Inc. v. Alaska Pac. Leasing*,  
19 132 Nev. 78, 88, 367 P.3d 1286, 1292 (2016). The district court's factual determinations are  
20 clearly erroneous if there is not substantial evidence to support those findings. *In re*  
21 *Guardianship of N.M.*, 131 Nev. 751, 754, 358 P.3d 216, 218 (2015). "Substantial evidence is  
22 'evidence that a reasonable person may accept as adequate to sustain a judgment.'" *Id.* (quoting  
23 *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007)). While the appellate court  
24 "reviews a district court's discretionary determinations deferentially, deference is not owed to  
25 legal error, or to findings so conclusory that they mask legal error[.]" *Davis v. Ewalefo*, 131 Nev.  
26 445, 450, 352 P.3d 1139, 1142 (2015). Relevant here, the definition for "incapacitated" under  
27 NRS 159.019 breaks down into two separate prongs: either 1) a person is unable to receive or  
28

1 evaluate information, or 2) a person is unable to make or communicate decisions, to such an  
2 extent that the person lacks the ability to meet essential requirements for physical health safety  
3 or self-care without appropriate assistance.<sup>8</sup>

4 Here, there is no substantial evidence to support the Court’s finding that Christine is  
5 “incapacitated” as defined by NRS 159.019. As stated previously, ALS is a neurodegenerative  
6 disease that affects nerve cells in the brain and spinal cord, and thereby, diminishes a person’s  
7 ability to conduct voluntary movements. ALS progressively affects a person’s motor neuron  
8 system until it causes death. Importantly, a diagnosis of ALS alone does not establish that a  
9 person lacks capacity. In fact, the ALS Association’s website has materials stating that up to 50  
10 percent of people with ALS never develop changes in thinking or behavior, while of the other  
11 50 percent who do experience some change, only approximately 25 develop dementia.<sup>9</sup> Here,  
12 Christine was never diagnosed with dementia, and neither the Physician’s Certificate nor any  
13 other medical information on the record state that her thinking and/or behavior is allegedly  
14 impaired. All that the Physician Certificate opines about is that Christine is allegedly unable to  
15 make or communicate decisions related to her physical needs, and it never states that Christine  
16 is unable to “receive or evaluate information.” The thrust of the Physician’s Certificate is  
17 Christine’s alleged inability to communicate.

20 However, even if Christine’s ability to communicate is impaired in some way, it is not  
21 clear what measures if any Dr. Craig Jorgenson used to communicate effectively with Christine.  
22 Nothing in the record shows how many times Dr. Craig Jorgenson examined Christine or how  
23 long those examinations took before he executed the Physician’s Certificate; whether Dr. Craig

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26 <sup>8</sup> For the sake of brevity, these will be referred to separately as the “unable to receive and evaluate  
27 information prong” and the “unable to make or communicate decisions prong” in this Motion.

28 <sup>9</sup> ALS Association, *FYI: Cognitive and Behavioral Changes in ALS: A Guide for People with  
ALS and their Families*, [https://www.als.org/navigating-als/resources/fyi-cognitive-and-  
behavioral-changes-als-guide-people-als-and-their](https://www.als.org/navigating-als/resources/fyi-cognitive-and-behavioral-changes-als-guide-people-als-and-their) (last visited December 08, 2021).

1 Jorgenson used any assistive technologies to communicate with Christine; nor explains why Dr.  
2 Craig Jorgenson believed that Christine now required a guardian even though a little over a  
3 month before filling out the Physician's Certificate, he certified that she had the capacity to  
4 execute a POLST. Moreover, as mentioned earlier, Mountain View Care Center's own medical  
5 records demonstrate that on July 02, 2021, Christine got a perfect score on a BIMS examine and  
6 showed "no cognitive impairment," and staff described her as being "alert" and "oriented."<sup>10</sup>  
7

8         The medical information in the record indicates that Christine has capacity, and the only  
9 possible support for this Court's finding of incapacity is Dr. Craig Jorgenson checking a box on  
10 the Physician's Certificate that just parrots the language under NRS 159.019's "unable to make  
11 or communicate decisions" prong. Worst of all, even though the Physician's Certificate only  
12 provides an opinion regarding the "unable to make or communicate decisions" prong, and omits  
13 any opinion regarding the "unable to receive and evaluate information" prong, this Court  
14 nonetheless explicitly rested its "incapacitated" finding on the "receive and evaluate  
15 information" prong. Specifically, this Court found that Christine is incapacitated because she  
16 cannot "receive and evaluate information," but it did not reference what portion of the record  
17 supports that finding. Likely because there is nothing in the record supporting that finding, and  
18 at best, there is conflicting information relevant to the "unable to make or communicate  
19 decisions" prong. Ironically, this Court then went on to specifically acknowledge that while ALS  
20 affects Christine's speech she is still "able to communicate" and still has "the capacity to weigh  
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24  
25 <sup>10</sup> Mountain View Care Center's response likewise does not present any evidence to support the  
26 finding that Christine is "incapacitated." *See Response*, filed on September 23, 2021. All that it  
27 attached to its Response are filings from the North Dakota guardianship case and some letters  
28 from medical providers in North Dakota. However, those documents merely express a concern  
in regards to Christine's boyfriend and the alleged care he is providing, and generally discuss  
her ALS diagnosis. They do not provide information that supports a finding that Christine is  
"incapacitated," and in fact, one letter that Petitioner provided even states that "Christine has  
capacity to be making her own decisions[.]" *See Exhibit 3*, attached to Petitioner's Response.

1 in” about her care, and specifically ordered that Christine be included in decision-making.

2 Additionally, a court’s failure to exercise its available discretion can itself be an abuse of  
3 discretion. *See Willmes v. Reno Mun. Court*, 118 Nev. 831, 835, 59 P.3d 1197, 1200 (2002)  
4 (holding that a court’s failure to exercise its available discretion can constitute a manifest abuse  
5 of discretion). Here, given the information that Christine provided with her Objection showing  
6 that she does not lack capacity, this Court should have exercised its discretion to hold an  
7 evidentiary hearing and resolve the factual dispute. This is especially so in light of the high “clear  
8 and convincing” standard that a petitioner must meet under NRS 159.055. This failure alone  
9 constitutes a manifest abuse of discretion.  
10

11 Therefore, this Court’s finding that the “unable to receive and evaluate information”  
12 prong under NRS 159.019 was met is not supported by substantial evidence, and is actually  
13 contradicted by the record. Also, this Court failed to make findings regarding what portions of  
14 the record demonstrate that Christine is “unable to receive and evaluate information,” and should  
15 have at least held an evidentiary hearing. Thus, this Court abused its discretion when it found  
16 that Christine is “incapacitated.”  
17

18 2. This Court denied Christine her right to due process.

19 Constitutional challenges are reviewed de novo. *Grupo Famsa v. Eighth Jud. Dist. Ct.*,  
20 132 Nev. 334, 337, 371 P.3d 1048, 1050 (2016). Procedural due process requires that interested  
21 parties be given notice and an opportunity to present their objections. *Id.* “Due process is not a  
22 rigid concept: ‘due process is flexible and calls for such procedural protections as the particular  
23 situation demands.’” *Watson v. Housing Authority of City of North Las Vegas*, 97 Nev. 240, 242,  
24 627 P.2d 405, 407 (1981) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)). A court  
25 must balance three factors when determining whether due process was satisfied: 1) the private  
26 interest affected by the governmental action, 2) the chance that procedures used will result in an  
27 improper deprivation of the private interest, and 3) the government’s interest and the additional  
28



1 cost of further procedural protections. *See Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1997).

2 For instance, in applying this standard, the court in *Weaver v. State, Dept. of Motor*  
3 *Vehicles*, held that a person at the very least should be “permitted to submit evidence that they  
4 consumed alcohol only after driving” prior to their driver’s license being revoked because the  
5 revocation of one’s license “implicated a protectable property interest entitling the license holder  
6 to due process.” 121 Nev. 494, 502, 117 P.3d 193, 199 (2005). It should go without saying that  
7 an adult facing the imposition of a guardianship should likewise have the opportunity to present  
8 favorable evidence and confront adverse witnesses, especially when essential facts regarding the  
9 proposed protected person’s capacity are in dispute. *See* 16D C.J.S. Constitutional Law § 1968  
10 (“When issues of fact are necessary to the determination of a court’s jurisdiction, due process  
11 requires that a trial-like hearing be held, in which an opportunity is provided to present evidence  
12 and to cross-examine adverse witnesses.”); *see also United States v. Jordan*, 742 F.3d 276, 279  
13 (7th Cir. 2014) (“Where, as here, a person's liberty is at stake, the opportunity to confront  
14 witnesses and reveal problems with their testimony is an important component of due process.”)

15  
16  
17 **When liberty is at stake, the limited right to confront and cross-examine adverse witnesses**  
18 **should not be denied without a strong reason.**) (emphasis added).

19 Each of the factors outlined in *Mathews* weigh in Christine’s favor here. First, as this  
20 Court is aware, the private interest affected in a guardianship case is substantial. Some have  
21 described the loss of freedom resulting from a guardianship as resembling “the loss of freedom  
22 following a criminal conviction.” *In re Conservatorship of Groves*, 109 S.W. 3d 317, 329 (Tenn.  
23 Ct. App. 2003). That liberty interest becomes even more resounding when, like here, the person  
24 the court is placing under guardianship is objecting. Christine fully understands the loss of  
25 freedom she is experiencing, and is adamant that she does not want a guardianship forced on her.  
26 The private interest at stake here—personal autonomy—is as profound as any interest can be.  
27  
28

Second, the procedure used here can and did result in a deprivation of the private interest.

1 In a guardianship proceeding, the finding that a proposed protected person is “incapacitated” is  
2 one of the most significant aspects of the case. So, when this Court received conflicting  
3 information regarding Christine’s alleged incapacity, it should have held an evidentiary hearing  
4 to resolve the dispute and to provide Christine a chance to confront adverse witnesses. Instead,  
5 this Court in effect accepted Petitioner’s allegations as true, ignored Christine’s exhibits showing  
6 that she did not lack capacity, and then decided to make a finding that was not supported by  
7 anything in the record—that Christine is “unable to receive and evaluate information.” At best,  
8 the information that Petitioner submitted to this Court provides conflicting accounts regarding  
9 Christine’s alleged inability to communicate, nothing states that she is “unable to receive and  
10 evaluate information.” Holding an evidentiary hearing and allowing Christine to be fully heard  
11 on the issue of her alleged incapacity would have satisfied due process, but the procedure, or  
12 lack thereof, applied in this case did not satisfy due process.  
13

14  
15 Third, the government’s interest in Christine’s case is minimal. There was no finding  
16 from a governmental agency that Christine was in need of a guardian, and the only APS case for  
17 Christine here in Nevada, was unsubstantiated. Therefore, there was no governmental interest in  
18 having Christine’s guardianship case proceed. In fact, it was Mountain View Care Center, a  
19 private facility, not any governmental agency, that pursued guardianship. The government of  
20 course has a *parens patriae* interest in protecting the well-being of its citizens, however, in  
21 Christine’s case all that there was when this Court appointed a guardian is conflicting evidence  
22 regarding Christine’s alleged incapacity. The government’s interest is minimal. Further, while  
23 there is a cost to the court in holding an evidentiary hearing, it is not something that is out of the  
24 ordinary in adult guardianship cases. In Christine’s case, this was the first time she had requested  
25 an evidentiary hearing, so this was not some heavily litigated issue that was draining resources.  
26 To the contrary, this was Christine’s first attempt at fighting the allegations made about her.  
27  
28

Accordingly, Christine’s due process rights were violated because she was not given an

1 opportunity to be fully heard on her objection when facts relevant to her alleged incapacity were  
2 very much in dispute.

3 3. This Court misinterpreted the *Rubin* case.

4 This Court's refusal to set an evidentiary hearing rests on a flawed interpretation of  
5 *Rubin*, that in effect, constituted an abuse of discretion because it is legal error, and it denied  
6 Christine her right to due process. This Court implied at Christine's citation hearing that the  
7 *Rubin* court held that the district court erred when it "did not consider hearsay evidence at the  
8 citation hearing," and then this Court went on to state that *Rubin* allows the district court to  
9 consider the North Dakota records for purposes other than determining jurisdiction. However,  
10 the *Rubin* court never made the sweeping proclamation that the district court claims.<sup>11</sup>

12 The *Rubin* court held the district court did not abuse its discretion when it dismissed the  
13 petition by concluding that a physician's certificate is required with the petition and refused to  
14 hold an evidentiary hearing before dismissing the petition. *Rubin*, 491 P.3d at 4. First, the *Rubin*  
15 court held that NRS 159.044(2) requires that a physician's certificate be included with the  
16 petition, and that NRS 159.044(2)(i)(1)(I)–(V) simply outlines the contents of what must be in  
17 the certificate. *Id.* at 5. Second, the *Rubin* court concluded that the district court erred when it  
18 found that the physician's certificate was insufficient because it was completed without an in-  
19 person examination and was based on hearsay evidence. *Id.*

21 The portion of the *Rubin* decision regarding hearsay evidence is most relevant here  
22 because it appears that is what this Court relied on at Christine's citation hearing. To be clear,  
23 this part of the *Rubin* decision focused not on what evidence *the court* can consider, but rather  
24 what evidence *the physician or other qualified professional* can consider when executing a  
25

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28 <sup>11</sup> The *Rubin* court began by expressing an opinion regarding jurisdiction to consider the appeal,  
which is not relevant here, and therefore, will not be discussed.

1 physician's certificate. The *Rubin* court cited to NRS 50.285(2), which is the evidentiary rule  
2 governing expert opinions, and stated “**experts** may, and commonly do, rely on hearsay when  
3 making expert opinions.” *Id.* (emphasis added). The *Rubin* court was opining about the  
4 parameters around the sufficiency of a physician's certificate to meet NRS 159.044(2)(i)(1)'s  
5 requirements, it was not making a sweeping conclusion as to every piece of evidence the district  
6 court may consider at a citation hearing. Essentially, this Court determined that because *Rubin*  
7 reinforces the rule that an expert can rely on facts or data that are not admissible into evidence  
8 when forming an opinion, the district court could also independently rely on inadmissible  
9 evidence and grant a guardianship over the proposed protected person's objection. However, the  
10 *Rubin* court did not grant district courts the leeway to disregard rules of evidence.

12 This Court's misinterpretation of *Rubin* contributed to both its abuse of discretion in  
13 finding that Christine is “incapacitated” and its violation of Christine's due process rights. It was  
14 clear error on the law, which is a textbook abuse of discretion. Moreover, it contributed to the  
15 deprivation of Christine's due process rights because this Court's flawed interpretation of *Rubin*  
16 allowed it to accept the information in the case at face value, and not allow Christine the  
17 opportunity to confront adverse witnesses. Further, this Court used *Rubin* to consider the  
18 investigator's report that was filed two days before the citation for any purpose, not just to  
19 determine jurisdiction, even though Christine was never given an opportunity to respond to the  
20 contents of the report.<sup>12</sup>

23 This Court's misinterpretation of *Rubin* appears to have been the driving force behind its  
24 abuse of discretion and violation of Christine's due process rights.

## 25 V. CONCLUSION

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27 <sup>12</sup> To be clear, the investigator's report mainly just showed that medical providers in North  
28 Dakota had issues with Christine's fiancé, the North Dakota APS case and guardianship were  
closed, and the Nevada APS case was closed.

1 Based on the foregoing, Christine respectfully requests that this Court stay its Amended  
2 Order Appointing Guardian pending the Nevada Supreme Court's ruling on the appeal thereof.

3 DATED this 13<sup>th</sup> day of December 2021.

4 **LEGAL AID CENTER OF**  
5 **SOUTHERN NEVADA, INC.**

6 /s/Katie Anderson

7 Katie Anderson, Esq.

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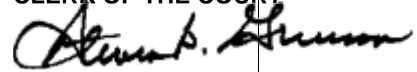
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*None.*

Kim Boyer	kimboyer@elderlawnv.com
Matthew D Carling	cedarlegal@gmail.com
Kate McCloskey	NVGCO@nvcourts.nv.gov

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Submitted confidentially to the Court:  
Exhibits to Motion to Stay Amended Order Establishing Guardianship of  
the Person and Estate and for Issuance of Letters of General Guardianship  
(Bates Numbers **AA 0271 - 0296**)



1 **NOH**

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**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the Matter of Guardianship of the Person  
and Estate of:

CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN,

An Adult Protected Person.

Case No.: G-21-055340-A

Dept. No.: B

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that the undersigned will bring the foregoing **MOTION TO STAY AMENDED ORDER ESTABLISHING GUARDIANSHIP OF THE PERSON AND ESTATE AND FOR ISSUANCE OF LETTERS OF GENERAL GUARDIANSHIP (SUMMARY ADMINISTRATION) PENDING APPEAL** on for hearing before the above-entitled Court on the \_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_ .m. in Department B.

DATED this 13<sup>th</sup> day of December, 2021.

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

/s/ Katie Anderson

Katie Anderson, Esq.

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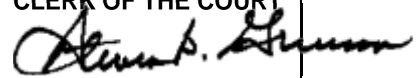
*Attorney for Christine B. Johnson aka  
Christine B. Weiderman, Protected Person*



DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

Electronically Filed  
12/13/2021 10:28 AM  
Steven D. Grierson  
CLERK OF THE COURT



In the Matter of the Guardianship of:  
Christine Johnson, Protected Person(s)

Case No.: G-21-055340-A

Department B

**NOTICE OF HEARING**

Please be advised that the Motion to Stay Amended Order Establishing Guardianship of the Person and Estate and Issuance of Letters of General Guardianship (Summary Administration) Pending Appeal in the above-entitled matter is set for hearing as follows:

**Date:** January 27, 2022  
**Time:** 9:30 AM  
**Location:** RJC Courtroom 10A  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

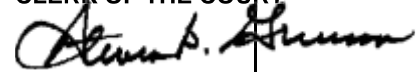
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Elizabeth Odo  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Elizabeth Odo  
Deputy Clerk of the Court



**EXPP**

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*Attorney for Christine B. Johnson aka Christine B. Weideman, Adult Protected Person*

**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the Matter of the Guardianship of the Person  
and Estate of:

CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN

Adult Protected Person.

**Case No.: G-21-055340-A  
Dept. No.: B**

**EX PARTE MOTION FOR AN ORDER SHORTENING TIME**

Christine B. Johnson aka Christine B. Weideman (“Christine”), the adult protected person, by and through her attorney, Katie M. Anderson, Esq., of Legal Aid Center of Southern Nevada, Inc., hereby files this Ex Parte Motion for an Order Shortening Time to hear the Motion to Stay Amended Order Establishing Guardianship of the Person and Estate and Issuance of Letters of General Guardianship (Summary Administration) Pending Appeal (“Motion to Stay”). The current hearing date is scheduled for January 27, 2022 at 9:30 a.m. If the Motion to Stay is heard in the ordinary course, there is an immediate risk of irreparable harm to Christine.

///

///

1 This Motion is brought pursuant to EJDRC 2.26, and based upon the Points and  
2 Authorities contained herein, and the Affidavit of Counsel attached hereto.

3 DATED this 13<sup>th</sup> day of December, 2021.

4  
5  
6 **LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

7 /s/ Katie M. Anderson, Esq.

8 Katie M. Anderson, Esq.

9 Nevada Bar No. 15153c

10 725 E. Charleston Blvd

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12 *Attorney for Christine B. Johnson aka Christine*  
13 *B. Weideman Adult Protected Person*  
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discussed. The hearing is currently scheduled for January 27, 2022 at 9:30 a.m.

**B. Plaintiff's Motion for an Order Shortening Time Should be Granted**

Good cause for setting the hearing on the Motion to Stay Amended Order Establishing Guardianship of the Person and Estate and Issuance of Letters of General Guardianship (Summary Administration) Pending Appeal is set forth in the Motion herein and in the Affidavit of Counsel attached to this Motion. It is respectfully requested that the hearing on Petitioner's Motion to Stay Amended Order Establishing Guardianship of the Person and Estate and Issuance of Letters of General Guardianship (Summary Administration) Pending Appeal, be set at the Court's earliest available date.

DATED this 13<sup>th</sup> day of December, 2021.

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

/s/ Katie M. Anderson, Esq.

Katie M. Anderson, Esq.

Nevada Bar No. 15153c

725 E. Charleston Blvd

Las Vegas, NV 89104

*Attorney for Christine B. Johnson aka Christine  
B. Weideman, Adult Protected Person*

**AFFIDAVIT**

STATE OF NEVADA            )  
  )  
COUNTY OF CLARK         )       ss:

KATIE M. ANDERSON, ESQ., being first duly sworn, upon oath, deposes and says:

1. I am an attorney duly licensed to practice law in the State of Nevada.
2. I am an attorney at the Legal Aid Center of Southern Nevada, Inc.
3. A Motion to Stay Amended Order Establishing Guardianship of the Person and Estate and Issuance of Letters of General Guardianship (Summary Administration) Pending Appeal was filed by Desiree Olson on December 13, 2021.
4. The hearing on that Motion to Stay is currently set for January 27, 2021 at 9:30 a.m..
5. Christine Johnson inure requests that the Motion to Stay Amended Order Establishing Guardianship of the Person and Estate and Issuance of Letters of General Guardianship (Summary Administration) Pending Appeal be heard at the Court's earliest convenience.

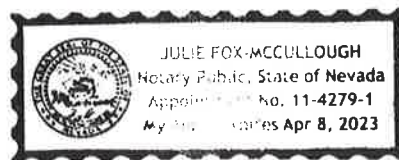
FURTHER YOUR AFFIANT SAYETH NOT.

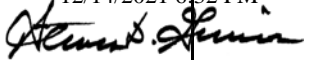
DATED this 13<sup>th</sup> day of December, 2021.

  
KATIE M. ANDERSON, ESQ.

SUBSCRIBED AND SWORN to before  
me by AFFIANT this 13<sup>th</sup> day of December, 2021.

  
NOTARY PUBLIC



  
CLERK OF THE COURT

OST

Katie Anderson, Esq.  
Nevada Bar No. 15153C  
[kanderson@lacsns.org](mailto:kanderson@lacsns.org)

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*Attorney for Christine Johnson  
Adult Protected Person*

**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the Matter of the Guardianship of the Person  
and Estate of:

CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN

Adult Protected Person.

**Case No.: G-21-055340-A  
Dept. No.: B**

**ORDER SHORTENING TIME**

Good cause appearing, CHRISTINE B. JOHNSON, by and through her attorney, Katie M. Anderson, Esq, of LEGAL AID CENTER OF SOUTHERN NEVADA, INC., and good cause appearing therefore:

IT IS HEREBY ORDERED that the time for hearing on the *Motion To Stay Amended Order Establishing Guardianship Of The Person And Estate And For Issuance Of Letters Of General Guardianship (Summary Administration)* Pending Appeal is hereby shortened and

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1  
2 shall be heard on the 16 day of December, 2021, at the hour of 9:00 o'clock  
3 a m. in Department B.  
4

5 **IT IS SO ORDERED.**

Dated this 14th day of December, 2021

*Linda Marquis*

F8A 25E CCE6 746D  
Linda Marquis  
District Court Judge

6  
7  
8  
9 *Submitted By:*

10 **LEGAL AID CENTER OF**  
11 **SOUTHERN NEVADA, INC.**

12 */s/ Katie Anderson*

13 Katie Anderson, Esq.  
14 Nevada Bar No. 15153C  
15 [kanderson@lacsnc.org](mailto:kanderson@lacsnc.org)

16 **LEGAL AID CENTER OF**  
17 **SOUTHERN NEVADA, INC.**  
18 725 E. Charleston Blvd  
19 Las Vegas, NV 89104  
20 Telephone: (702) 386-1537  
21 Facsimile: (702) 386-1537

22 *Attorney for Christine B. Johnson,*  
23 *Adult Protected Person*  
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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 In the Matter of the Guardianship of: CASE NO: G-21-055340-A  
7 Christine Johnson, Protected DEPT. NO. Department B  
8 Person(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order Shortening Time was served via the court's electronic eFile  
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/14/2021

15 Kate McCloskey	NVGCO@nvcourts.nv.gov
16 Katie Anderson	kanderson@lacs.n.org
17 Matthew Carling	cedarlegal@gmail.com
18 Kimli Nguyen	knguyen@lacs.n.org
19 Kim Boyer	kimboyer@elderlawnv.com
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## REGISTER OF ACTIONS

CASE NO. G-21-055340-A

In the Matter of the Guardianship of: Christine Johnson, Protected Person(s)

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Case Type: **Guardianship of Adult General - Person & Estate - Summary**  
Subtype: **Summary**  
Date Filed: **08/23/2021**  
Location: **Department B**  
Cross-Reference Case Number: **G055340**  
Supreme Court No.: **83912**

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### PARTY INFORMATION

---

<b>Guardian of Person and Estate</b>	<b>Kelly, Karen</b> 515 Shadow LN Las Vegas, NV 89106	Female	<b>Lead Attorneys</b> <b>Matthew D. Carling</b> <i>Retained</i> 702-419-7330(W)
<b>Petitioner</b>	<b>Boyer, Esq., Kim</b> 10785 W. Twain Avenue, Suite 210 Las Vegas, NV 89135		<b>Kim Boyer</b> <i>Retained</i> 702-255-2000(W)
<b>Protected Person</b>	<b>Johnson, Christine B.</b> c/o Facility licensed in the State of Nevada Address Confidential N/A, NV 89135		<b>Katie Anderson</b> <i>Retained</i> 702-386-1537(W)

---

### EVENTS & ORDERS OF THE COURT

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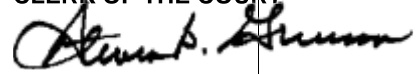
12/15/2021 **Minute Order** (7:30 AM) (Judicial Officer Marquis, Linda)

**Minutes**

12/15/2021 7:30 AM

- MINUTE ORDER: NO HEARING HELD AND NO APPEARANCES  
RE: G-21-055340-M NRCP 1 and EDCR 1.10 state that the procedure in district courts shall be administered to ensure efficient, speedy, and inexpensive determinations in every action. Pursuant to EDCR 2.23(c), this Court can consider a motion and issue a decision on the papers at any time without a hearing. The Court notes that a Findings of Fact, Conclusions of Law [docket #35] was filed on December 14, 2021. The Court further notes that the Findings of Fact, Conclusions of Law [docket #35] was filed in error. Accordingly, the Findings of Fact, Conclusions of Law [docket #35] shall be STRICKEN. A copy of this minute order shall be provided to all Parties. CLERK NOTE: A copy of this Minute Order was e-mailed to parties at the e-mail address on record with the Court; if no e-mail address was available, the minute order was mailed to the physical address of record 12/15/21. (kc)

[Return to Register of Actions](#)



1 **NEOJ**

2 Katie Anderson, Esq.

3 Nevada Bar No. 15153C

4 [kanderson@lacsns.org](mailto:kanderson@lacsns.org)

5 **LEGAL AID CENTER OF**

6 **SOUTHERN NEVADA, INC.**

7 725 E. Charleston Blvd

8 Las Vegas, NV 89104

9 Telephone: (702) 386-1537

10 Facsimile: (702) 386-1537

11 *Attorney for Christine B. Johnson aka Christine B. Weiderman, Adult Protected Person*

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**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the Matter of the Guardianship of the Person  
and Estate of:

CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN

Adult Protected Person.

**Case No.: G-21-055340-A  
Dept. No.: B**

**NOTICE OF ENTRY OF ORDER**

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the attached  
**ORDER SHORTENING TIME** in the above captioned matter was entered on the 14<sup>th</sup> day of  
December, 2021.

DATED this 15<sup>th</sup> day of December, 2021.

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

/s/ Katie Anderson, Esq.

Katie Anderson, Esq.

Nevada Bar No. 15153C

[kanderson@lacsns.org](mailto:kanderson@lacsns.org)

725 E. Charleston Blvd

Las Vegas, NV 89104

Telephone: (702) 386-1537

Facsimile: (702) 386-1537

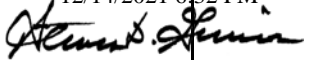
*Attorney for Christine B. Johnson aka Christine  
B. Weiderman, Adult Protected Person*

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*NONE.*

Kate McCloskey	<a href="mailto:NVGCO@nvcourts.nv.gov">NVGCO@nvcourts.nv.gov</a>
Matthew Carling	<a href="mailto:cedarlegal@gmail.com">cedarlegal@gmail.com</a>
Kim Boyer	<a href="mailto:kimboyer@elderlawnv.com">kimboyer@elderlawnv.com</a>

/s/ Kimli Nguyen  
Employee of Legal Aid Center of Southern Nevada

  
CLERK OF THE COURT

**OST**

Katie Anderson, Esq.  
Nevada Bar No. 15153C  
[kanderson@lacsnsn.org](mailto:kanderson@lacsnsn.org)

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

725 E. Charleston Blvd  
Las Vegas, NV 89104  
Telephone: (702) 386-1537  
Facsimile: (702) 386-1537

*Attorney for Christine Johnson  
Adult Protected Person*

**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the Matter of the Guardianship of the Person  
and Estate of:

CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN

Adult Protected Person.

**Case No.: G-21-055340-A  
Dept. No.: B**

**ORDER SHORTENING TIME**

Good cause appearing, CHRISTINE B. JOHNSON, by and through her attorney, Katie M. Anderson, Esq, of LEGAL AID CENTER OF SOUTHERN NEVADA, INC., and good cause appearing therefore:

IT IS HEREBY ORDERED that the time for hearing on the *Motion To Stay Amended Order Establishing Guardianship Of The Person And Estate And For Issuance Of Letters Of General Guardianship (Summary Administration)* Pending Appeal is hereby shortened and

///

///

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1  
2 shall be heard on the 16 day of December, 2021, at the hour of 9:00 o'clock  
3 a m. in Department B.  
4

5 **IT IS SO ORDERED.**

Dated this 14th day of December, 2021

*Linda Marquis*

F8A 25E CCE6 746D  
Linda Marquis  
District Court Judge

6  
7  
8  
9 *Submitted By:*

10 **LEGAL AID CENTER OF**  
11 **SOUTHERN NEVADA, INC.**

12 */s/ Katie Anderson*

13 Katie Anderson, Esq.  
14 Nevada Bar No. 15153C  
15 [kanderson@lacsns.org](mailto:kanderson@lacsns.org)

16 **LEGAL AID CENTER OF**  
17 **SOUTHERN NEVADA, INC.**  
18 725 E. Charleston Blvd  
19 Las Vegas, NV 89104  
20 Telephone: (702) 386-1537  
21 Facsimile: (702) 386-1537

22 *Attorney for Christine B. Johnson,*  
23 *Adult Protected Person*  
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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

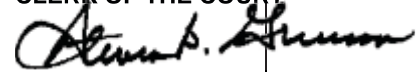
5  
6 In the Matter of the Guardianship of: CASE NO: G-21-055340-A  
7 Christine Johnson, Protected DEPT. NO. Department B  
8 Person(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order Shortening Time was served via the court's electronic eFile  
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/14/2021

15 Kate McCloskey	NVGCO@nvcourts.nv.gov
16 Katie Anderson	kanderson@lacs.n.org
17 Matthew Carling	cedarlegal@gmail.com
18 Kimli Nguyen	knguyen@lacs.n.org
19 Kim Boyer	kimboyer@elderlawnv.com
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RSPN  
CARLING LAW OFFICE, PC  
MATTHEW D. CARLING, ESQ.  
Nevada Bar No.: 007302  
703 S. 8<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 419-7330 (Office)  
(702) 446-8065 (Fax)  
[CedarLegal@gmail.com](mailto:CedarLegal@gmail.com)  
*Attorney for Karen Kelly,*  
CLARK COUNTY PUBLIC GUARDIAN

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

\* \* \* \* \*

In the Matter of the Guardianship of:  
CHRISTINE JOHNSON aka CHRISTINE  
WEIDERMAN, an Adult Protected Person.

Case No.: G-21-055340-A  
Dept. No.: B  
Date: 12/16/21 @ 9:00am

**RESPONSE TO MOTION TO STAY AND  
PETITION FOR ADVICE AND INSTRUCTIONS**

<input type="checkbox"/> TEMPORARY GUARDIANSHIP	<input checked="" type="checkbox"/> GENERAL GUARDIANSHIP
<input type="checkbox"/> Person	<input type="checkbox"/> Person
<input type="checkbox"/> Estate	<input type="checkbox"/> Estate <input checked="" type="checkbox"/> Summary Admin.
<input type="checkbox"/> Person & Estate	<input checked="" type="checkbox"/> Person & Estate
<input type="checkbox"/> SPECIAL GUARDIANSHIP	<input checked="" type="checkbox"/> NOTICES/SAFEGUARDS
<input type="checkbox"/> Person	<input type="checkbox"/> Blocked Account Required
<input type="checkbox"/> Estate <input type="checkbox"/> Summary Admin.	<input type="checkbox"/> Bond Required
<input type="checkbox"/> Person & Estate	<input checked="" type="checkbox"/> Public Guardian Bond
	<input type="checkbox"/> Protected Person Passed Away

COMES NOW, Karen Kelly, Clark County Public Guardian (“CCPG”), Guardian of the Person and Estate of Christine Johnson and submits this Response to the Motion to Stay filed on December 13, 2021, and seeks advice and instructions regarding the continued care of the Protected Person and responds as follows:

**Motion to Stay Amended Order for Guardianship**



1 The CCPG takes no position on the Motion to Stay. The sole purpose of the CCPG is to  
2 provide the best possible care for the Protected Person. The Protected Person is currently receiving  
3 the proper medical attention for her needs. *See* Confidential Medical Records filed 12/14/21. The  
4 CCPG wants what is best the Protected Person.

#### 5 **POLST Status vs. DNR/DNI**

6 According to the Confidential Medical Records filed on 12/14/21, at least 2 attending  
7 physicians opine that the Protected Person should be designated as DNR/DNI. Based on the  
8 Protected Person's POLST and acknowledgement regarding lifesaving treatment to Case Manager  
9 Terrill Judie, the CCPG has rejected medical professionals' opinions in this regard. One attending  
10 physician indicates that heroic lifesaving measures will be extremely painful and most likely will  
11 not likely increase the Protected Person's quality of life. Nevertheless, the CCPG feels it is bound  
12 by the Protected Person's wishes. The CCPG seeks instructions, advice or approval of its  
13 continued position to honor the Protected Person's POLST even if it is against medical advice.

#### 14 **Confidential Medical Information & Location**

15 Prior to her inability to communicate, the Protected Person did not want any of her family  
16 to know where she was or what her medical condition may be. The only person she authorized to  
17 visit and be informed of her medical condition is her fiancé, Anthony Anchondo. The CCPG has  
18 confirmed that Mr. Anchondo was able to visit the Protected Person prior to her being intubated.  
19 Family members have inquired about seeing their mother and the nature of her condition. Chapter  
20 159 requires that we notify family when the Protected Person is moved. However, the CCPG  
21 desires to honor the wishes of the Protected Person. As such, the CCPG seeks instructions or  
22 advice regarding notifying the family of the Protected Person's location and her medical condition.  
23 To date, the CCPG has kept this information confidential.

**WHEREFORE**, the CCPG seeks instructions, advice and/or approval of acts of Guardian regarding:

1. Honoring the Protected Person's POLST in light of contrary medical opinions;
2. What information, if any, the CCPG may share with family in light of the Protected Person's wishes and guardianship statutes; and
3. Any of the instructions or advice that the Court deems appropriate under the circumstances.

DATED December 15, 2021.

**CARLING LAW OFFICE, PC**

Matthew D. Carling, Esq.

**MATTHEW D. CARLING, ESQ.**

Nevada Bar No.: 007302

*Attorney for Karen Kelly,*

CLARK COUNTY PUBLIC GUARDIAN

## CERTIFICATE OF SERVICE

I hereby certify that, on December 15, 2021, I sent a true and correct copy of **Response** to the following parties *via* the method indicated below:

PLEASE CONTACT [CEDARLEGAL@GMAIL.COM](mailto:CEDARLEGAL@GMAIL.COM) IF YOU  
WOULD LIKE TO RECEIVE NOTICES VIA EMAIL IN THE FUTURE

**Christine Johnson**  
c/o CONFIDENTIAL  
*Protected Person*

**Katie Anderson**  
[kanderson@lacs.org](mailto:kanderson@lacs.org)  
*Attorney for Protected Person*

**Kim Boyer, Esq.**  
[kimboyer@elderlawnv.com](mailto:kimboyer@elderlawnv.com)  
*Attorney for Petitioner*

**Anthony Anchondo**

Address Unknown

*Significant Other*

**Robert Weiderman**

9800 Virginia Woods Circle

Las Vegas, Nevada 89117

*Son*

**Richard Weiderman**

4828 Minturn Avenue

Las Vegas, Nevada 89130

*Son*

**Edward Weiderman**

9025 W. Desert Inn Road, Apt. #267

Las Vegas, Nevada 89117

*Son*

**Valerie Weiderman**

8777 W. Maule Avenue, Unit #2109

Las Vegas, Nevada 89148

*Daughter*

**Jennifer Weiderman**

[Jennifer.Weiderman@gmail.com](mailto:Jennifer.Weiderman@gmail.com)

*Daughter*

**Allison Weiderman**

Unknown Whereabouts

*Daughter*

CARLING LAW OFFICE, PC

*Matthew D. Carling, Esq.*

**MATTHEW D. CARLING, ESQ.**

Nevada Bar No.: 007302

*Attorney for Karen Kelly,*

CLARK COUNTY PUBLIC GUARDIAN

## REGISTER OF ACTIONS

**CASE NO. G-21-055340-A**

**In the Matter of the Guardianship of: Christine Johnson, Protected Person(s)**

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Case Type: **Guardianship of Adult General - Person & Estate - Summary**  
 Subtype: **Summary**  
 Date Filed: **08/23/2021**  
 Location: **Department B**  
 Cross-Reference Case Number: **G055340**  
 Supreme Court No.: **83912**

### PARTY INFORMATION

<b>Guardian of Person and Estate</b>	<b>Kelly, Karen</b> 515 Shadow LN Las Vegas, NV 89106	Female	<b>Lead Attorneys</b> <b>Matthew D. Carling</b> <i>Retained</i> 702-419-7330(W)
<b>Petitioner</b>	<b>Boyer, Esq., Kim</b> 10785 W. Twain Avenue, Suite 210 Las Vegas, NV 89135		<b>Kim Boyer</b> <i>Retained</i> 702-255-2000(W)
<b>Protected Person</b>	<b>Johnson, Christine B.</b> c/o Facility licensed in the State of Nevada Address Confidential N/A, NV 89135		<b>Katie Anderson</b> <i>Retained</i> 702-386-1537(W)

### EVENTS & ORDERS OF THE COURT

12/16/2021 **Motion to Stay** (9:00 AM) (Judicial Officer Marquis, Linda)  
*Motion to Stay Amended Order Establishing Guardianship of the Person and Estate and Issuance of Letters of General Guardianship (Summary Administration) Pending Appeal*

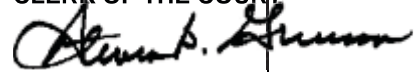
#### Minutes

12/16/2021 9:00 AM

- MOTION TO STAY AMENDED ORDER ESTABLISHING GUARDIANSHIP OF THE PERSON AND ESTATE AND ISSUANCE OF LETTERS OF GENERAL GUARDIANSHIP PENDING APPEAL In accordance with Administrative Order 20-01, and in order to prevent the spread of COVID-19 infection in the community, this Hearing was held via video conference through BlueJeans. Court Clerks: Tanya Stengel, Karen Christensen (kc) Attorney Elizabeth Mikesell, Legal Aid Center, appeared as an observer. Attorney Sunny Valencia, Nevada Bar #8913, appeared for attorney Kim Boyer. Also appearing: Jennifer Wiederman, daughter Robert Wiederman, son Edward Wiederman, son Valerie Wiederman, daughter Court reviewed the recent history and pleadings on file. Court noted Mr. Carling's response also asked for advice and instructions. Court informed Ms. Anderson it would need a written reply to Mr. Carling's response. Court stated it wanted to give the family members an opportunity to speak at this hearing. Ms. Anderson stated Protected Person did not want to involve her family in this matter or decisions about her care, and objected to the family members participating or providing input. Ms. Anderson especially objected to the family members being informed about Protected Person's health status. Mr. Carling stated the public guardian's office had abided by Protected Person's wish not to share her medical information with family members. Mr. Carling noted this is a public hearing and the family members could not be excluded unless Court determined to close the hearing. Court noted it did not have legal authority to close the hearing or make it a sealed matter. Court stated it would allow family members to make statements. Ms. Anderson made further arguments in support of closing the hearing during discussion related to health matters. Court was not inclined to close a portion of the hearing. Family members each made statements in support of being able to see their mother before she passes away. COURT ORDERED: Ms. Anderson shall submit a WRITTEN REPLY to Mr. Carling's response, and shall be filed no later than 12/20/21 by 5:00 PM. Upon receipt of Ms. Anderson's reply, Court shall issue WRITTEN ORDERS.

[Parties Present](#)

[Return to Register of Actions](#)



**RPLY**

Katie Anderson, Esq.  
Nevada Bar No. 15153C  
[kanderson@lacs.org](mailto:kanderson@lacs.org)

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

725 E. Charleston Blvd  
Las Vegas, NV 89104  
Telephone: (702) 386-1537  
Facsimile: (702) 386-1537

*Attorney for Christine B. Johnson  
Adult Protected Persons*

**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

In the Matter of the Guardianship of the Person  
and Estate of:

**Case No.: G-21-055340-A  
Dept. No.: B**

CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN

Adult Protected Person.

**CHRISTINE JOHNSON'S REPLY TO RESPONSE TO MOTION TO STAY AND  
PETITION FOR ADVICE AND INSTRUCTIONS AND CONTINUED REQUEST TO  
STAY AMENDED ORDER FOR GUARDIANSHIP**

Christine Johnson, proposed adult protected person ("Christine"), by and through her counsel, Katie M. Anderson, Esq., of Legal Aid Center of Southern Nevada, Inc., hereby submits her Reply to Response to Motion to Stay and Petition for Advice and Instructions filed by the Clark County Public Guardian ("CCPG") on December 15, 2021. This Reply is made and based upon the following memorandum of points and authorities, the pleadings and papers on file, and oral argument at the time of the hearing on this matter.

DATED this \_\_\_\_ day of December, 2021.

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**LEGAL AID CENTER OF SOUTHERN  
NEVADA, INC.**

/s/ Katie M. Anderson  
Katie M. Anderson, Esq.  
Nevada Bar No. 15153C  
kanderson@lacs.n.org  
725 E. Charleston Blvd.  
Las Vegas, Nevada 89104  
Telephone: (702) 386-1537  
Facsimile: (702) 386-1537  
*Attorney for Christine B. Johnson,  
Adult Protected Person*

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. FACTUAL AND PROCEDURAL BACKGROUND**

On August 23, 2021, Petitioner filed its Petition for Appointment of Clark County Public Guardian as a General Guardian of the Person and Estate and for Issuance of Letters of Guardianship (“Petition”). Christine, the protected person, filed her Opposition on September 17, 2021.<sup>1</sup> At the September 23, 2021 Citation Hearing, the district court appointed an investigator and continued the hearing. The Amended Order to Appoint Investigator was later entered on October 21, 2021. The investigator filed her report on November 2, 2021. The investigator’s report described one APS report in North Dakota and one in Clark County, and that the North Dakota guardianship case regarding Christine appeared to be closed. The Clark County APS report investigated financial exploitation of Christine by some of her family members. The Physician’s Certificate (“PC”) stated that Christine was diagnosed with, among other things, ALS, and Major Depressive Disorder. Aside from major depressive disorder, the other diagnoses are physical diagnoses, but there is no explanation of Christine’s capacity relative to her physical diagnoses. The same physician determined that Christine had capacity to

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<sup>1</sup> See Opposition and accompanying Exhibits filed September 17, 2021.

1 execute a POLST (Provider Order for Life Sustaining Treatment) about two months prior. The  
2 physician, Craig Jorgenson, did not opine that Christine is unable to receive and evaluate  
3 information; instead, he opined that she “is unable to make or communicate decisions to such an  
4 extent that the patient lacks the ability to meet essential requirements for physical health, safety,  
5 or self-care without proper assistance.” However, the record is void as to what steps medical  
6 providers took to communicate effectively with Christine.

7 To refute the conclusive allegations in the PC, Christine provided exhibits to her  
8 opposition. She provided documents from the Petitioner’s facility showing that Christine  
9 voluntarily signed herself in and signed various documents relevant to her medical care like the  
10 POLST that was certified by Dr. Craig Jorgenson; that medical staff at the facility described her  
11 as “alert and oriented” and stated that she “answers all questions appropriately;” and that she  
12 was administered a BIMS (Brief Interview of Mental Status) test in which she “scored a 15/15  
13 indicating no cognitive impairment.” Importantly, the PC, and other information, do not assert  
14 that there was a sudden decline in Christine’s health necessitating a guardianship.

15 At the continued citation hearing, Christine’s counsel argued that the record  
16 demonstrated that she has capacity. Thus, Petitioner failed to meet its burden to show by clear  
17 and convincing evidence that guardianship was necessary; and alternatively, if the district court  
18 would not dismiss the Petition, it should at least set an evidentiary hearing. Despite the  
19 conflicting information regarding capacity, the district court concluded that Petitioner had met  
20 its burden, and that, Christine is “incapacitated” under NRS 159.019. The district court entered  
21 its order on November 10, 2021.

22 Christine appealed the district court’s order, and filed a Motion to Stay Amended Order  
23 Establishing Guardianship of the Person and Estate and for Issuance of Letters of General  
24 Guardianship (Summary Administration) Pending Appeal (“Motion to Stay”) on December 13,  
25 2021. Neither the Clark County Public Guardian (“CCPG”), the Petitioner, or the family  
26 members opposed Christine’s Motion to Stay. Rather, the CCPG filed a response stating that it  
27 would take no position on the Motion to Stay, but requested instruction from the court on other  
28 ancillary issues concerning placing Christine on a DNR/DNI and releasing medical

1 information/location to her family members. The Motion to Stay was heard on an order  
2 shortening time on December 16, 2021. At that hearing, the district court refused to immediately  
3 rule on the motion and instead requested briefing from Christine’s counsel on the additional  
4 issues raised in the CCPG’s Response.

## 5 **II. LEGAL ARGUMENT**

### 6 **A. Christine executed a POLST and the same must be honored.**

7 NRS 499A.563 describes a POLST as a medical order that must be honored by any  
8 provider of health care who treats a patient in any health-care setting, including, without  
9 limitation, the patient’s residence, a health care facility or the scene of a medical emergency. The  
10 statute further instructs any provider of health care comply with a valid POLST form, regardless  
11 of whether the provider of health care is employed by a health care facility or other entity  
12 affiliated with the physician who executed the POLST form.<sup>2</sup> In this case, Christine executed a  
13 POLST on June 25, 2021 at her long term care facility, at which time she indicated that she  
14 wanted her physicians to attempt resuscitation, and to prolong life by all medically effective  
15 means.<sup>3</sup> Christine further directed physicians, in her POLST, to offer long term artificial nutrition  
16 or feeding tube.<sup>4</sup> At the time that Christine executed her POLST, Dr. Craig Jorgensen certified  
17 that she had decisional capacity to execute the same. The Court has not, to date, questioned the  
18 validity of the POLST and therefore it must be honored.

### 19 **B. Christine has the right to choose who receives medical information** 20 **about her, and who visits her.**

21  
22 NRS 159.328 sets forth the rights of a protected person (“Bill of Rights”). They are, in  
23 pertinent part, as follows:  
24  
25

---

26 <sup>2</sup> NRS 499A.563

27 <sup>3</sup> See the POLST filed herein on September 17, 2021.

28 <sup>4</sup> *Id.*



1 g. Have due consideration given to your current and previously stated personal  
2 desires, preferences for health care and medical treatment, and religious and  
3 moral beliefs.

4  
5 h. Remain as independent as possible, including, without limitation, to have your  
6 preference honored regarding your residence and standard of living, either as  
7 expressed or demonstrated before a determination was made relating to capacity  
8 or as currently expressed, if the preference is reasonable under the circumstances.

9  
10 k. Be granted the greatest degree of freedom possible, consistent with the reasons  
11 for a guardianship, and exercise control of all aspects of your life that are not  
12 delegated to a guardian specifically by a court order.

13 l. Be treated with respect and dignity.

14 m. Maintain privacy and confidentiality in personal matters.

15  
16 Christine has been opposed to her family visiting her or receiving information about her  
17 since before the Amended Order for Guardianship was entered. The Petition for Appointment of  
18 Clark County Public Guardian as a General Guardian of the Person and Estate and for Issuance  
19 of Letters of Guardianship explains that an Adult Protective Services case exists in Nevada  
20 wherein Don Weideman and Robbie Weideman were persons of interest in a financial  
21 exploitation case. Though that case was eventually closed, it was not because the allegations  
22 against Christine's children were unfounded, but rather because Christine refused to cooperate  
23 with the investigation further. Since then, Christine has reiterated her concerns about having  
24 been financially exploited by her family, as well as her desire to exclude her family from seeing  
25 or receiving information about her.

26 Regardless of the reason set forth above, Christine is an adult and entitled to have her  
27 personal desires and preferences respected by the Court. She further has the right to exercise  
28 control over all aspects of her life that she is able. While the Bill of Rights specifically instructs

1 the Court regarding acts of the Guardian to prohibit contact with visitors, it also provides  
2 affirmative rights on many matters that touch on familial relationships. If Christine is entitled to  
3 visit certain family members, then it only stands to reason that she is also entitled not to have  
4 contact with others. A protected person also maintains a right to privacy and confidentiality.  
5 Christine has clearly expressed her wishes concerning who should and who should not have  
6 information about her health. Christine has specifically and repeatedly asked that her children be  
7 excluded from receiving any information about her health and her location. It is the Court's legal  
8 and ethical responsibility to honor her wishes.

9 C. **Christine is entitled to an immediate Stay of Amended Order Establishing**  
10 **Guardianship of the Person and Estate and Issuance of Letters of General**  
**Guardianship (Summary Administration).**

11 When determining whether to grant a request for stay, the Court must consider the  
12 following factors:

- 13 (1) whether the object of the appeal will be defeated if the stay is denied;  
14 (2) whether appellant will suffer irreparable or serious injury if the stay is  
15 denied; (3) whether respondent will suffer irreparable or serious injury if  
the stay is granted; and (4) whether appellant is likely to prevail on the  
merits in the appeal.

16 *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89 P.3d 36, 38 (2004). No one factor  
17 carries more weight than another, but the Nevada Supreme Court has recognized that if one or  
18 two factors are especially favorable to the appellant, they may counterbalance other weak factors.  
19 *See id.* (citing *Hansen v. Eighth Judicial Dist. Court*, 116 Nev. 650, 659, 6 P.3d 982, 987 (2000)).  
20 These factors weigh heavily in Christine's favor. Christine is currently suffering from ALS, a  
21 progressive nervous system disease for which there is currently no cure. To be blunt, Christine  
22 might have little time left depending on how the disease progresses, and so the object of the  
23 appeal will ultimately be defeated if Christine passes while the appeal is pending. Ignoring  
24 Christine's wishes at a time when her wishes should be vehemently honored is causing  
25 irreparable harm to Christine. She might inevitably spend the last of her days under a  
26 guardianship that she does not want nor need. Conversely, there is no harm at all to the Clark  
27 County Public Guardian or the Petitioner if this Court grants a stay. Finally, Christine is likely  
28 to prevail on the merits of her appeal because her due process rights were violated when this

1 Court appointed a guardian despite the existence of disputed facts regarding Christine's capacity,  
2 and before Christine had an opportunity to confront adverse witnesses at an evidentiary hearing,  
3 and because this Court abused its discretion. Moreover, this Court's order is based on a flawed  
4 interpretation of *Matter of Guardianship of Rubin*, 137 Nev. Adv. Op. 27, 491 P.3d 1 (2021).

5 At the hearing, the CCPG took no position as to Christine's Motion to Stay, and no other  
6 party opposed her Motion to Stay or raised objections at the hearing. The Court has no reason to  
7 deny the Motion to Stay and the same should be immediately granted.

### 8 **III. CONCLUSION**

9 For the aforementioned reasons, Christine respectfully requests that her POLST be  
10 honored, regardless of contrary medical opinions; that her location and medical information  
11 remain protected and confidential, including, but not limited to, from her children; and that the  
12 Court stay its Amended Order Appointing Guardian pending the Nevada Supreme Court's  
13 ruling on the appeal thereof.

14 DATED this 20<sup>th</sup> day of December, 2021.

15  
16  
17 **LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

18 /s/ Katie M. Anderson  
19 Katie M. Anderson, Esq.  
20 Nevada Bar No. 15153C  
21 kanderson@lacsns.org  
22 725 E. Charleston Blvd  
23 Las Vegas, NV 89104  
24 Telephone: (702) 386-1537  
25 Facsimile: (702) 386-1537  
26 *Attorney for Christine Johnson,*  
27 *Proposed Adult Protected Persons*  
28

I HEREBY CERTIFY that on the 20th day of December 2021, I deposited in the United States Mail at Las Vegas, Nevada, a copy of the foregoing document entitled **CHRISTINE JOHNSON’S REPLY TO RESPONSE TO MOTION TO STAY AND PETITION FOR ADVICE AND INSTRUCTIONS AND CONTINUED REQUEST TO STAY AMENDED ORDER FOR GUARDIANSHIP** in a sealed envelope, mailed regular U.S. mail, upon which first class postage was fully prepaid, addressed to the following:

AND I FURTHER CERTIFY that on the same date I electronically served the same document to the following via ODYSSEY, the Court's electronic filing system, pursuant to NEFCR 9:

Kim Boyer  
[kimboyer@elderlawnv.com](mailto:kimboyer@elderlawnv.com)

AA0325

FFCL

**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY NEVADA**

In the Matter of the Guardianship of the ) Case No.: G-21-055340-A  
Person and Estate: ) Dept. No.: B  
)  
Christine Johnson, )  
)  
Protected Person(s). )  
\_\_\_\_\_ )

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDERS**  
**APPOINTING GUARDIAN**

***Procedural History***

Petition for Appointment of the Clark County Public Guardian was filed on August 23, 2021, by a medical facility.<sup>1</sup> The Petition alleged that the Proposed Protected Person was suffering from Amyotrophic Lateral Sclerosis (ALS), quadriplegia, neuromuscular dysfunction of the bladder, loss of appetite, and major depressive disorder.

The Facility's Petition alleged that the Proposed Protected Person's significant other was currently in custody relative to domestic violence charges. The Facility also alleged that there was an open Adult Protective Service case in which the Protected Person's children were persons of interest. Further, no one was authorized to make medical decisions on behalf

<sup>1</sup> The facility was unnamed because the Proposed Protected Person requested that her location remain unknown to her family. See Petition for Guardianship at page 2.

1 of the Proposed Protected Person or obtain Medicaid benefits to pay for the  
2 Proposed Protected Person's medically necessary care.

3  
4 Further, the Physician's Certificate, filed on August 23, 2021,  
5 indicated that the Proposed Protected Person:

- 6 1. has sufficient loss of executive function resulting in a barrier to  
7 meaningful understanding or rational response;
- 8 2. is unable to execute on desires, preference, or stated goals,  
9 preventing the ability to pursue the patient's own best interest; and  
10
- 11 3. is unable to make or communicate decisions to such an extent that  
12 the patient lacks the ability to meet essential requirements for  
13 physical health, safety, or self-care without proper assistance.  
14

15  
16 The Physician's Certificate indicated that the prognosis for the  
17 Proposed Protected Person is poor and that patient is not capable of living  
18 independently, requiring 24 hour supervision. *See* Physician's Certificate  
19 filed on August 23, 2021.  
20

21 The Facility alleged that the Proposed Protected Person owns no  
22 property, has no assets, and receives only monthly Social Security benefits.  
23

24 At the Citation Hearing, Counsel for Protected Person requested  
25 additional time to reply to the Petitioner's Response to the Opposition. The  
26 Court appointed the Nevada Supreme Court Guardianship Compliance  
27 Investigator to obtain APS records and Court Records from the North Dakota  
28

1 guardianship proceedings. The Citation Hearing was continued to October  
2 21, 2021.

3  
4 At the October 21<sup>st</sup> Continued Citation Hearing, the court records from  
5 North Dakota had not yet been received. Counsel for Protected Person  
6 requested that the Court order the Facility to allow Protected Person's  
7 significant other access to the Protected Person; and further order the Facility  
8 to allow the Protected Person's significant other ability to obtain the  
9 Protected Person's banking information. The Court declined to issue any  
10 orders until the North Dakota court records were reviewed and the Court  
11 evaluated the issue of jurisdiction. The Citation Hearing was continued to  
12 November 4, 2021.

13  
14 The North Dakota records were utilized to examine and determine the  
15 issues of jurisdiction presented in this matter.

16  
17 At the November 4, 2021, Continued Citation Hearing, Counsel for the  
18 Protected Person objected to the guardianship and requested an evidentiary  
19 hearing. The Court appointed the Clark County Public Guardian.

20  
21  
22 ***Findings of Fact***

23  
24 THE COURT FURTHER FINDS that the Proposed Protected Person  
25 was living in Las Vegas, Nevada, and travelled to North Dakota to pursue  
26 mineral rights and inheritance.

1 THE COURT FURTHER FINDS that on February 26, 2021, the  
2 Vulnerable Adult Protective Services in Stanley, North Dakota filed an ex  
3 parte petition to appoint an emergency guardian in the District Court of  
4 William County, North Dakota, Case number 53-2021-PR-00052. *See*  
5 Report and Recommendations filed by Nevada Investigator on November 2,  
6 2021, containing the North Dakota pleadings and register of actions.  
7

8  
9 THE COURT FURTHER FINDS that on February 26, 2021, the North  
10 Dakota Court appointed Emergency Guardians, the Proposed Protected  
11 Person's children, Jennifer Weiderman and Robert Weiderman.  
12

13 THE COURT FURTHER FINDS that the North Dakota Order directed  
14 that the William County Sheriff's Office immediately locate the Protected  
15 Person and remove her from the Super 8 Motel.  
16

17 THE COURT FURTHER FINDS that the North Dakota Temporary  
18 Emergency Order expired within ten days.  
19

20 THE COURT FURTHER FINDS that on March 5, 2021, the North  
21 Dakota Court issued an Order of Dismissal and closed the case.  
22

23 THE COURT FURTHER FINDS that approximately the end of  
24 February 2021, the Proposed Protected Person travelled back to Las Vegas,  
25 Nevada.  
26

27 THE COURT FURTHER FINDS that the Proposed Protected Person  
28 was admitted to University Medical Center in Clark County, Nevada.



1 THE COURT FURTHER FINDS that after the UMC hospitalization,  
2 the Proposed Protected was admitted to another Medical Facility on June 25,  
3 2021.  
4

5 THE COURT FURTHER FINDS that the medical records provided by  
6 Proposed Protected Person indicate that upon admission to Facility, Protected  
7 Person complained that her children tried to kill her and she disowned them.  
8

9 THE COURT FURTHER FINDS that that the medical records  
10 provided by Proposed Protected Person indicate that upon admission to  
11 Facility she planned to remain in the facility for rehab and then return home  
12 with her fiancé to a Las Vegas apartment.  
13

14 THE COURT FURTHER FINDS that the Proposed Protected Person  
15 has been diagnosed with the following: Amyotrophic Lateral Sclerosis  
16 (ALS); quadriplegia; neuromuscular dysfunction of the bladder; loss of  
17 appetite; and major depressive disorder.  
18  
19

20 THE COURT FURTHER FINDS that ALS is a degenerative disease.

21 THE COURT FURTHER FINDS that the Proposed Protected Person's  
22 prognosis is poor and the degree severe. *See Physician's Certificate.*  
23

24 THE COURT FURTHER FINDS that the Proposed Protected Person's  
25 requires 24 hour supervision. *See Physician's Certificate*  
26

27 THE COURT FURTHER FINDS that in reference to activities of daily  
28 living, the Proposed Protected Person requires: total care in six of seven areas

1 of care of self; requires substantial assistance in all seven areas of financial  
2 care; requires substantial assistance in only one of five areas of medical care  
3 and needs support in the remaining four categories of medical care; requires  
4 substantial assistance in all nine areas of home and community life. *See*  
5 Physician's Certificate.  
6

7  
8 THE COURT FURTHER FINDS that the Proposed Protected Person  
9 has sufficient loss of executive function resulting in a barrier to meaningful  
10 understanding or rational response; is unable to execute on desires,  
11 preference, or stated goals, preventing the ability to pursue the patient's own  
12 best interest; and is unable to make or communicate decisions to such an  
13 extent that the patient lacks the ability to meet essential requirements for  
14 physical health, safety, or self-care without proper assistance. *See*  
15 Physician's Certificate.  
16

17  
18 THE COURT FURTHER FINDS that during the course of the  
19 Proposed Protected Person's hospitalization at the Facility, her ability to  
20 communicate diminished. *See* Exhibits to Opposition at page 60.  
21

22 THE COURT FURTHER FINDS that during the course of the  
23 Proposed Protected Person's hospitalization at the Facility, her prescriptions  
24 for pain medication evolved to treat her chronic pain and included, among  
25 other things: Tramadol; Morphine ER; Norco; lidocaine patches; and MS  
26 Contin. *See* Exhibits to Opposition at page 60.  
27  
28

1 THE COURT FURTHER FINDS that the Proposed Protected Person  
2 has been physically present in Clark County, Nevada for the six consecutive  
3 months immediately preceding the filing of the petition for guardianship in  
4 this matter.  
5

6 THE COURT FURTHER FINDS that the North Dakota proceedings  
7 were dismissed well before the Nevada proceedings were initiated.  
8

9 THE COURT FURTHER FINDS that the North Dakota emergency  
10 temporary guardianship order expired in February 2021 and the North  
11 Dakota Court dismissed the proceedings in March 2021.  
12

13 THE COURT FURTHER FINDS that the North Dakota Court has not  
14 exercised continuing jurisdiction in this matter.  
15

16 THE COURT FURTHER FINDS that under the factual circumstances,  
17 North Dakota is not the Proposed Protected Person's home state. The  
18 Proposed Protected Person is currently receiving medical treatment and in the  
19 care of a Clark County, Nevada medical facility.  
20

21 THE COURT FURTHER FINDS that under the factual circumstances,  
22 the Nevada Court is a more appropriate forum than any other State Court.  
23 The Proposed Protected Person is currently receiving medical treatment and  
24 in the care of a Clark County, Nevada medical facility.  
25  
26  
27  
28

1 THE COURT FURTHER FINDS that the Proposed Protected Person,  
2 through her Counsel, has expressed her desire not to participate in any  
3 available ALS treatments.  
4

5 ***Conclusions of Law***

6 A Nevada District Court has jurisdiction to appoint a guardian if: Nevada  
7 is the home state of the proposed protected person; the proposed protected  
8 person holds property within this State and a court of the home state of the  
9 proposed protected person has declined to exercise jurisdiction because this  
10 State is a more appropriate forum; the proposed protected person has a  
11 significant connection with this State and a court of the home state of the  
12 proposed protected person has declined to exercise jurisdiction because this  
13 State is a more appropriate forum; or the Proposed Protected Person does not  
14 have a home state. *See* NRS 159.1998(1).  
15  
16  
17

18 Home state is defined as the state in which a proposed protected  
19 person has been physically present for at least six consecutive months,  
20 immediately before the filing of a petition of the appointment of a guardian.  
21 *See* NRS 159.017.  
22  
23

24 Here, records reveal that Proposed Protected Person lived in Las Vegas,  
25 Nevada and then travelled to North Dakota for about one year to pursue  
26 mineral rights. As a result of the emergency temporary guardianship in  
27  
28

1 North Dakota, the Proposed Protected Person was transported back to Las  
2 Vegas, Nevada.

3  
4 It is within the district court's discretion to determine whether the  
5 contents of a guardianship petition and physician's certificate demonstrate a  
6 need for a guardianship. *See Matter of Guardianship of Rubin*, 491 P.3d 1  
7 (July 2021).  
8

9 If the court finds that the proposed protected person is not  
10 incapacitated and is not in need of a guardian, the court shall dismiss the  
11 petition. *See* NRS 159.054(1). Alternatively, if the court finds that  
12 appointment of a general guardian is required, the court shall appoint a  
13 guardian. *See* NRS 159.054(3).  
14  
15

16 An incapacitated individual is unable to receive and evaluate information  
17 or make or communicate decisions to such an extent that the person lacks the  
18 ability to meet essential requirements for physical health, safety, or self-care  
19 without appropriate assistance. *See* NRS 159.019.  
20

21 Protected Person failed to establish adequate cause for holding an  
22 evidentiary hearing. *See Rubin* at 6, *citing to Rooney v. Rooney*, 109 Nev  
23 540, 542 (1993). Protected Person argues that she is entitled to confront and  
24 cross-examine the physician who authored the Physician's Certificate he  
25 made contrary observations upon her admission to the facility on June 25,  
26 2021.  
27  
28

1 Here, the Petition and Physician's Certificate establish that the Proposed  
2 Protected Person is unable to receive and evaluate information or make or  
3 communicate decisions to such an extent that the person lacks the ability to  
4 meet essential requirements for physical health, safety, or self-care without  
5 appropriate assistance. Further, the Petition and Physician's Certificate  
6 establish that the appointment of a guardian is necessary.  
7

8  
9 Further, there exists no power of attorney, healthcare directive, nor  
10 supported decision making agreement that would alleviate the necessity for a  
11 guardianship.  
12

13 The Physician's Certificate indicates that the Proposed Protected Person is  
14 in need of 24-hour supervision and requires substantial assistance.  
15

16 A Proposed Protected Person does not have an absolute right, as a criminal  
17 defendant, to confront and cross examine witnesses in a guardianship  
18 proceeding. In fact, a criminal defendant's confrontation rights are not  
19 absolute and are subject to many exceptions. Nevertheless, guardianship  
20 proceedings are not criminal. The proceedings are not initiated by the  
21 government. The liberty interests of a Proposed Protected Person are not  
22 comparable to the liberty interests of a criminal defendant.  
23  
24

25 The Physician's Certificate is specifically identified by statute and case  
26 law and the district court able to rely upon its contents without the necessity  
27 of live testimony from the physician. *See* NRS 159.044 and *Rubin* at 5.  
28

1 Counsel for the Protected Person was appointed weeks prior to the final  
2 Citation Hearing in this matter and was authorized to obtain various records.  
3  
4 In fact, Counsel for the Protected Person did just that and submitted medical  
5 records to the Court for consideration. The Court considered the  
6 approximate 80 pages of records provided by the Protected Person and the  
7 Protected Person's arguments based upon those records.  
8

9 However, the Proposed Protected Person's records and argument were not  
10 persuasive. The fact that the Proposed Protected Person was at one time  
11 determined to have capacity and weeks later was determined not to have  
12 capacity is not unique and is not sufficient to establish the necessity for an  
13 evidentiary hearing that would include live testimony from the physician.  
14 Medical and mental health is not static. It is not the same overtime. An  
15 individual can quickly decline or improve.  
16  
17

18 ***Orders***  
19

20 IT IS HEREBY ORDERED that the Clark County Public Guardian shall  
21 be appointed guardian of the person.  
22

23 IT IS FURTHER ORDERED that the general powers of the Clark County  
24 Public Guardian shall be limited to allow the Protected Person to continue to  
25 participate and make medical decisions.  
26  
27  
28

1 IT IS FURTHER ORDERED that should the Public Guardian and the  
2 Proposed Protected Person disagree about a medical decision after  
3  
4 consultation and discussion, the Court will hear the matter.

5 IT IS FURTHER ORDERED that an Order Appointing Guardian shall  
6  
7 issue and Counsel shall draft and submit proposed findings of fact and  
8 conclusions of law that support the Order.

9 IT IS SO ORDERED.

Dated this 28th day of December, 2021



3AB 261 112D 86DB  
Linda Marquis  
District Court Judge



1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 In the Matter of the Guardianship of: CASE NO: G-21-055340-A  
7 Christine Johnson, Protected DEPT. NO. Department B  
8 Person(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

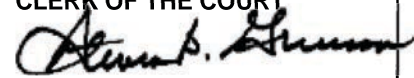
11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
14 case as listed below:

15 Service Date: 12/28/2021

16 Kate McCloskey	NVGCO@nvcourts.nv.gov
17 Katie Anderson	kanderson@lacsns.org
18 Matthew Carling	cedarlegal@gmail.com
19 Kim Boyer	kimboyer@elderlawnv.com
20 Selena Vedro	svedro@lacsns.org

21  
22 If indicated below, a copy of the above mentioned filings were also served by mail  
23 via United States Postal Service, postage prepaid, to the parties listed below at their last  
24 known addresses on 12/29/2021

25 State Guardianship Compliance Officer	201 S Carson ST STE 250
	Carson City, NV, 89701-4702



**RESP**  
**KIM BOYER, ESQ.**  
Nevada Bar #5587  
10785 West Twain Avenue, Suite #210  
Las Vegas, Nevada 89135  
(702) 255-2000  
Email: kimboyer@elderlawnv.com  
Attorney for Mountain View

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

In the Matter of the Guardianship of  
  
CHRISTINE B. JOHNSON aka  
CHRISTINE B. WEIDERMAN,  
  
An Adult Protected Person.

Case No.: G-21-055340-A  
Dept. No.: B

**RESPONSE TO MOTION TO STAY**

☐ **TEMPORARY GUARDIANSHIP**

- ☐ Person  
☐ Estate  
☐ Person and Estate

☒ **GENERAL GUARDIANSHIP**

- ☐ Person  
☐ Estate  
☒ Person and Estate  
☐ Summary Admin.

☐ **SPECIAL GUARDIANSHIP**

- ☐ Person  
☐ Estate  
☐ Person and Estate

☒ **NOTICES / SAFEGUARDS**

- ☒ Blocked Account Required  
☐ Bond Required


Mountain View Care Center filed its petition requesting that the Clark County Public Guardian ("CCPG") be appointed as the general guardian of the Person and Estate of CHRISTINE B. JOHNSON AKA CHRISTINE B. WEIDERMAN. On November 20, 2021, the District Court appointed the CCPG as the general guardian of the Person and Estate of CHRISTINE B. JOHNSON AKA CHRISTINE B. WEIDERMAN. The Protected Person is no longer at Mountain View Care Center.

...

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26

Mountain View Care Center believes the District Court made the correct decision  
in appointing the CCPG, and that a guardian is in the best interest of CHRISTINE B. JOHNSON  
AKA CHRISTINE B. WEIDERMAN.

DATED this 28<sup>th</sup> day of December, 2021.

Respectfully submitted,  
  
KIM BOYER, ESQ.  
Nevada Bar #5587  
Attorney for Mountain View  
Care Center

ORDR

**EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY NEVADA**

In the Matter of the Guardianship of the ) Case No.: G-21-055340-A  
Person and Estate: ) Dept. No.: B  
)  
Christine Johnson, )  
)  
Protected Person(s). )  
\_\_\_\_\_ )

**ORDER GRANTING PROTECTED PERSON'S REQUEST FOR  
STAY; AND ORDER DENYING CLARK COUNTY PUBLIC  
GUARDIAN'S COUNTERPETITION FOR ADVICE AND  
INSTRUCTION**

Petition for Appointment of the Clark County Public Guardian was filed on August 23, 2021. The Petition alleged that the Proposed Protected Person was primarily suffering from Amyotrophic Lateral Sclerosis (ALS) and major depressive disorder. The Petition alleged that no one was authorized to make medical decisions on behalf of the Proposed Protected Person or obtain Medicaid benefits to pay for the Proposed Protected Person's medically necessary care. The Petition alleged that the Proposed Protected Person's significant other was currently in custody relative to domestic violence charges and the Proposed Protected Person's children were persons of interest in an APS Investigation.

1 Clark County Public Guardian was appointed on November 4, 2021.

2 On December 13, 2021, Counsel for Protected Person filed a request  
3  
4 for stay in the District Court. The Court heard the request for stay on an  
5 order shortening time three days later.

6 The Clark County Public Guardian filed a response and a  
7  
8 counterpetition for advice and instructions on December 15th. Karen Kelly,  
9 Clark County Public Guardian, indicated that she took no position on the  
10 motion for stay. *See* Response to Motion for Stay at page 2. The Public  
11 Guardian further requested additional instructions regarding: honoring the  
12 Protected Person's POLST contrary to medical opinions; and honoring  
13 Protected Person's wishes for confidentiality contrary to Nevada  
14 guardianship law. First, Protected Person made advanced directives relative  
15  
16 to end-of-life health care. However, the Protected Person's directive is  
17  
18 contrary to at least two doctors' recommendation of DNR/DNI status because  
19  
20 the lifesaving treatment would be extremely painful and not likely to increase  
21 the Protected Person's quality of life. Second, Protected Person requested  
22 that her family not be made aware of her location and medical information.  
23 However, that request is contrary to the Guardian's explicit duty, including  
24 NRS 159.0807 which requires that family members be notified if the  
25 Protected Person is moved and NRS 159.0809 which requires that family  
26  
27 members be notified of impending death.  
28

1           At the December 16th Hearing, Counsel for Protected Person had not  
2 yet responded to the Public Guardian's Counterpetition for Advice and  
3 Instructions. Counsel for Protected Person was given additional time to  
4 discuss the issues raised in the Public Guardian Petition with the Protected  
5 Person and respond.  
6

7           Several of the Protected Person's children appeared at the Hearing.  
8 Counsel for the Protected Person requested they be removed from the  
9 Hearing and not be allowed to address the Court. The Court declined and  
10 allowed the family to remain in the public hearing and address the Court. The  
11 Petition for Advice and Instructions related directly to the family's ability to  
12 communicate and visit with the Protected Person and obtain information  
13 about the Protected Person. Further, no request to seal had been filed and no  
14 request to limit communication and contact had been filed. See NRS  
15 159.328(1)(d) and NRS 159.0617.  
16

17           Counsel for Protected Person filed her Reply on December 20, 2021.  
18

19           There were no objections to the Protected Person's request for stay  
20 and, accordingly, it shall be granted. *See generally Walls v. Brewster*, 112  
21 Nev 175, 178-179 (1996).  
22

23           Therefore, the requests from the Clark County Public Guardian for  
24 instructions relative to the Protected Person's POLST contrary to medical  
25 opinion and Protected Person's desire to withhold her location and medical  
26  
27  
28

1 information from her family contrary to Nevada Guardianship law are  
2 denied, without prejudice, as they are moot.

3  
4 IT IS HEREBY ORDERED the Order Appointing Guardian shall be  
5 stayed.

6 IT IS FURTHER ORDERED that the Letters of Guardianship shall be  
7  
8 revoked, pending the stay.

9 IT IS FURTHER ORDERED that the Public Guardian's request for  
10 advice and instructions is moot pending the stay and therefore denied,  
11 without prejudice.

12  
13 IT IS FURTHER ORDERED that a status check regarding the stay be  
14 scheduled for the Court's Chambers Calendar on June 29, 2022.

15  
16 IT IS SO ORDERED.

Dated this 29th day of December, 2021

*Linda Marquis*

55B 753 FB07 96CC  
Linda Marquis  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 In the Matter of the Guardianship of: CASE NO: G-21-055340-A  
7 Christine Johnson, Protected DEPT. NO. Department B  
8 Person(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/29/2021

15 Kate McCloskey	NVGCO@nvcourts.nv.gov
16 Katie Anderson	kanderson@lacsns.org
17 Matthew Carling	cedarlegal@gmail.com
18 Kim Boyer	kimboyer@elderlawnv.com
19 Selena Vedro	svedro@lacsns.org

20  
21 If indicated below, a copy of the above mentioned filings were also served by mail  
22 via United States Postal Service, postage prepaid, to the parties listed below at their last  
23 known addresses on 12/30/2021

24 State Guardianship Compliance Officer	201 S Carson ST STE 250 Carson City, NV, 89701-4702
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FILED

MAR 28 2022

*Sharon A. Hines*  
CLERK OF COURT

1 TRANS

2  
3 ORIGINAL

4  
5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8  
9 In the Matter of ) CASE NO. G-21-055340-A  
the Guardianship of: ) DEPT. B  
10 )  
CHRISTINE JOHNSON, ) APPEAL NO. 83912  
11 )  
Protected Person(s). )  
12 )

13  
14 BEFORE THE HONORABLE LINDA MARQUIS

15 TRANSCRIPT RE: ALL PENDING MOTIONS

16 THURSDAY, SEPTEMBER 23, 2021

1 APPEARANCES:

2     The Protected Person(s):           CHRISTINE JOHNSON  
3     For the Protected Person(s):       KATIE ANDERSON, ESQ.  
4                                       725 East Charleston Blvd.  
5                                       Las Vegas, Nevada 89104  
6  
7     The Petitioner:                   KIM BOYER (Not present)  
8     For the Petitioner:               SUNNY VALENCIA, ESQ.  
9                                       1746 W. Horizon Ridge Pkwy.  
10                                      Henderson, Nevada 89012  
11  
12     The Guardian of  
13     Person and Estate:               KAREN KELLY (Not present)  
14     For the Guardian of  
15     Person and Estate:               MATTHEW D. CARLING, ESQ.  
16                                       703 S. 8th St.  
17                                       Las Vegas, Nevada 89101  
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1 LAS VEGAS, NEVADA

THURSDAY, SEPTEMBER 23, 2021

2 PROCEEDINGS

3 (THE PROCEEDING BEGAN AT 12:47:37.)

4 THE COURT: This is the matter of the guardianship of  
5 Christine Johnson, G-21-055340-A. Also (breaking up -  
6 indiscernible).

7 Ms. Anderson, your appearance for the record.

8 MS. ANDERSON: Good afternoon, Your Honor. Katie M.  
9 Anderson. My bar number is 15153C. I'm from the Legal Aid  
10 Center of Southern Nevada. And I'm the court-appointed  
11 counsel for Ms. Johnson; and Ms. Johnson is appearing today,  
12 Your Honor.

13 THE COURT: Good afternoon, Ms. Johnson. It's a pleasure  
14 to see you.

15 Mr. Carling, your appearance for the record.

16 MR. CARLING: Matthew Carling, 7302, for the Clark County  
17 Public Guardian.

18 THE COURT: Along with the public guardian, Ms. Kelly.

19 Ms. Valencia, your appearance for the record.

20 MS. VALENCIA: Sunny Valencia, 8913, here on behalf of  
21 Mountain View Care Center.

22 THE COURT: I'm gonna note for the record that Mr.  
23 Gastrinski (ph) is also joining us. He is observing and is a  
24 colleague of Ms. Anderson's. Thank you for joining.

25 I apologize. I note the objection that was filed.

1 Ms. Valencia, Mr. Carling, relative to the objections, do you  
2 have any other information or anything else you'd like to  
3 share?

4 MS. ANDERSON: Your Honor, if I may. I hate to  
5 interrupt. But the reply that was filed -- and I think  
6 something Ms. Valencia is likely to refer to here this  
7 morning, was filed at 8:38 this morning and contains some  
8 information that I probably need time to discuss with my  
9 client. So if -- if that's gonna be discussed here today, I  
10 would ask for additional time to process (indiscernible)...

11 THE COURT: And I -- I have not reviewed that filing this  
12 morning. I am looking at it now. Does it appear that I need  
13 to appoint an investigator to obtain additional information?

14 MS. VALENCIA: That would be awesome, Judge.

15 THE COURT: From North Dakota and from Clark County  
16 person.

17 MS. VALENCIA: That would be great if you could appoint  
18 an invest- investigator.

19 THE COURT: Ms. Anderson.

20 MS. ANDERSON: I -- I am not -- I am not requesting an  
21 investigator, Your Honor. I just am requesting additional  
22 time to discuss and be able to respond.

23 MS. VALENCIA: Yeah.

24 THE COURT: All right. I -- I do want to -- the petition  
25 references adult protective services. This -- this document,

1 this response that was filed today also does, I'm gonna  
2 appoint the investigator -- Court's investigator to obtain  
3 from North Dakota and also from Clark County all of the  
4 records relevant to the proposed protected person.

5 Anything else that I can do today, counsel? Is the  
6 (breaking up - indiscernible)...

7 MS. ANDERSON: (Indiscernible).

8 MS. VALENCIA: (Indiscernible).

9 THE COURT: Do you have the pleadings from the North  
10 Dakota case?

11 MS. VALENCIA: We don't have the pleadings, no.

12 THE COURT: Do you have a case number or any additional  
13 information?

14 MS. VALENCIA: What we filed today there was information  
15 from North Dakota.

16 THE COURT: Not a case number? My concern is  
17 jurisdiction, whether or not there's an existing order.  
18 That's what I'm looking for. If the lawyers have access to  
19 that information and can hunt that down, I'm happy for you to  
20 do that. And understand that I'm looking for a juris-  
21 jurisdictional issues. (Indiscernible)...

22 MS. KELLY: (Indiscernible) Your Honor, I think there was  
23 a temporary guardianship attached as an exhibit in the one  
24 that I received.

25 MS. VALENCIA: Yeah, it was -- it was an emergency

1 guardianship, Your Honor, that expired in -- it was either  
2 like 60 or 90 days.

3 THE COURT: Is it...

4 MS. VALENCIA: And...

5 THE COURT: I apologize because this is -- I -- I was  
6 already on -- in court when (breaking up - indiscernible)...

7 MS. VALENCIA: Yeah.

8 THE COURT: ...and I'm searching now for a case number.  
9 I do see a case number. It's the District Court of Williams  
10 County, North Dakota, Civil Number 532021PR00052. It looks  
11 like there's a law firm and an attorney involved. My -- my  
12 conc-- I -- I can ask the investigator to get this  
13 information, but -- and -- and I'm going to; but quite  
14 frankly, I think it's probably easier for counsel to -- to  
15 obtain that information. I don't know.

16 So I'll ask the investigator to obtain the court  
17 file so -- so that I have a better understanding. Certainly  
18 it might be a temporary. My concern is that there was a  
19 general filed afterwards. And so I want to make sure that  
20 that court understands that this is going on.

21 Let me set this out 30 days, Ms. Anderson, Ms.  
22 Valencia. Is that sufficient or do you want a different time  
23 frame? I'm open.

24 MS. ANDERSON: 30 days is adequate for me, Your Honor.

25 THE COURT: All right.

1 MS. VALENCIA: Yeah.

2 THE COURT: 30-days. Set it at the end of the day.

3 THE CLERK: Okay. October 28th. Hang on, Judge. We  
4 don't actually have (indiscernible). It can be October 21st  
5 at 2:30.

6 THE COURT: October 21st, 2:30. We blocked out that  
7 time.

8 THE CLERK: Yeah.

9 THE COURT: We have that time for this case. Thank you.

10 MS. VALENCIA: Thank you.

11 (THE PROCEEDING ENDED AT 12:53:47.)

12

13 \* \* \* \* \*

14

15 ATTEST: I do hereby certify that I have truly and  
16 correctly transcribed the video proceedings in the above-  
17 entitled case to the best of my ability.

17

18

19

  
SHERRY JUSTICE  
COURT RECORDER/TRANSCRIBER

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April 1, 2022

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ELECTRONIC SEAL (NRS 1.190(3))

FILED

MAR 28 2022

*Alanna A. Hoffman*  
CLERK OF COURT

1 TRANS

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3 ORIGINAL  
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5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA  
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15 TRANSCRIPT RE: ALL PENDING MOTIONS  
16 THURSDAY, OCTOBER 21, 2021  
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1 LAS VEGAS, NEVADA

THURSDAY, OCTOBER 21, 2021

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 02:30:41.)

4 THE CLERK: On the record.

5 THE COURT: This is the matter of the guardianship of  
6 Christine Johnson, G-21-055340-A. I'm Judge Linda Marquis.

7 Also joining us is Ms. Anderson.

8 MS. ANDERSON: Good afternoon, Your Honor. Katie M.  
9 Anderson. My bar number is 15153C. I'm from the Legal Aid  
10 Center of Southern Nevada, and I'm the court-appointed  
11 counsel for Ms. Christine Johnson. And, Your Honor, Ms.  
12 Johnson is appearing via BlueJeans so that she can  
13 participate here today.

14 THE COURT: Thank you so much.

15 Good afternoon, Ms. Johnson.

16 Also joining us is Ms. Valencia.

17 MS. VALENCIA: Good morning -- or good afternoon, Your  
18 Honor. Sunny Valencia, bar number 8913, here on behalf of  
19 Mountain View Care -- Care Center; and I believe some of my  
20 representatives of my client are on the call; but I...

21 THE COURT: I do see Frank (indiscernible)...

22 MS. VALENCIA: ...don't know who they are.

23 THE COURT: Sure. Frank Bellinger, administrator. Is  
24 that correct?

25 MS. VALENCIA: Yes, yes.

1 THE COURT: All right. And there is someone else joining  
2 us at a telephone number ending 5152.

3 Your name for the record.

4 Ms. Valencia, I can't see any audio associated with  
5 that.

6 MS. VALENCIA: Yeah, I -- (indiscernible) the  
7 microphone's off; but...

8 THE COURT: No, I -- look at that connection. And we are  
9 not sending or rece- and they are not sending or receiving.  
10 Mr. Bellinger's connection strength is poor. So he is also  
11 not sending or receiving. So I'm -- I'm sure that they are  
12 able -- whether or not they can hear us. I'm gonna type...

13 MR. BELLINGER: Yes, Your Honor. This is Frank  
14 Bellinger, the administrator. I can -- I can hear.

15 THE COURT: All right.

16 MR. BELLINGER: I'm thinking the 5152 may be -- that's  
17 the connection of my activity director, Kelynn (ph), is in  
18 Ms. Johnson's room with the video screen. I can go down  
19 there and -- and see if they have the audio connection  
20 unless...

21 THE COURT: No, that's fine.

22 MR. BELLINGER: Kelynn, can you hear us? Ms. Kelynn.

23 MS. DELISSA: (Breaking up - indiscernible). I'm in with  
24 Ms. Johnson.

25 MR. BELLINGER: Oh, Delissa (ph), you -- you're with Ms.

1 Johnson?

2 MS. DELISSA: Yes.

3 MR. BELLINGER: Oh, okay. So, yeah, we do have Ms.  
4 Johnson. I think she's 5152.

5 MS. VALENCIA: Okay. Great.

6 THE COURT: Thank you so much. And we can hear you, Mr.  
7 Bellinger, just fine. Thank you.

8 Mr. Carling, your appearance for the record.

9 MR. CARLING: Matthew Carling, 7302, with the Clark  
10 County public guardian.

11 THE COURT: Along with Ms. Kelly.

12 Good afternoon, Ms. Kelly.

13 So I've reviewed again this afternoon the  
14 opposition that was filed in this case, the response. So I  
15 note that I appointed an investigator to obtain additional  
16 information. We don't have that report here.

17 Counsel, have you had an opportunity to discuss  
18 this matter? Do you have any additional information, Ms.  
19 Anderson?

20 MS. ANDERSON: Are you asking me if I have any additional  
21 information about the other case? I do not.

22 THE COURT: Okay.

23 Ms. Valencia, I noted that -- I appointed the  
24 investigator; but I don't have a report from the  
25 investigator. I have the document, the emergency ten-day

1 guardianship that is attached to your response that was filed  
2 on the 23rd of September. (Indiscernible) any other  
3 documents.

4           The petition also alleges an existing adult  
5 protective services investigation in which the person of  
6 interest is family members of Ms. Johnson, specifically her  
7 children; but I don't have those documents yet. I -- I don't  
8 have a report from the investigator or -- or anything else.

9           Ms. Valencia, we discussed in part perhaps what  
10 happened in that North Dakota case; but we don't know -- or I  
11 don't have the additional pleadings. Do you have any  
12 additional documents or -- or have any information about the  
13 adult protective services investigation that's ongoing?

14           MS. VALENCIA: I don't, Your Honor, just the information  
15 we received from -- from Christine's daughter.

16           THE COURT: Ms. Anderson, what's your request today?

17           MS. ANDERSON: Your Honor, I'm requesting that the  
18 petition be denied for a couple of different reasons. And  
19 I'm happy to make my argument now if that's appropriate.

20           Firstly, Your Honor, we've got this question of  
21 whether this is proper jurisdictionally because there may be  
22 an open case in North Dakota; and if that's the case, they've  
23 already exerted jurisdiction over Ms. Johnson. And until we  
24 know whether or not that case has concluded, I don't think  
25 that the Court could proceed with appointing a guardian here.

1 So for procedural reasons, I'm asking the Court to deny the  
2 petition.

3 But additionally, I have some substantive reasons  
4 why I'd like to articulate that relate to why I don't think  
5 this petition is appropriate. May I proceed with that part?

6 THE COURT: Sure, let me -- let me...

7 MS. ANDERSON: Okay.

8 THE COURT: ...say this. I -- I am concerned about that  
9 jurisdictional issue. We know that the court very recently  
10 acted in North Dakota. And it appears that their rules are  
11 much like ours in that that judge issued an ex parte  
12 emergency temporary guardianship. It was in existence for  
13 ten days. It required a hearing on the tenth day, just --  
14 just as our statutes do. I don't know what happened after  
15 that.

16 So although I do have the supporting documents from  
17 adult protective services and from physicians that were  
18 attached to that decision in which the court issued that  
19 emergency ex parte temporary and appointed the proposed  
20 protected person's son and daughter as co-guardians, I don't  
21 know what happened after that. I don't know.

22 There was a court date set. We know that. At that  
23 ten-day hearing in Nevada, it would've been -- the temporary  
24 would've been extended to the citation date; and then a  
25 general would've issued. I don't know what happened.

1           Certainly a court has taken jurisdiction and acted  
2 in this case. I do not want to step on the toes of that  
3 court, nor do I want to issue competing orders. Certainly it  
4 might have been, Ms. Anderson, that we could -- you know, who  
5 knows what happened at all these hearings? There was a  
6 guardian ad litem appointed. There was all of these other  
7 people appointed.

8           They could've issued the guardianship. They  
9 could've granted the petitioners request to relocate to  
10 Nevada. But then this would be a different petition that  
11 we'd be looking at. They would be the guardians. And -- and  
12 this would be a request for a successor guardian. There  
13 might be an argument that that should be done in North Dakota  
14 or here, but I don't know.

15           But I just don't know procedurally where we stand,  
16 and so I hesitate. A million things could've really happened  
17 at any of those hearings, Ms. Anderson; and we could suppose  
18 what happened; but a court has acted and relatively recently;  
19 right?

20           And certainly Christine was then hospitalized. And  
21 there's an investigation here from adult protective services,  
22 but I don't know what that investigation has determined.  
23 Certainly our adult protective services may have as part of  
24 their investigation reached out and make a determination  
25 about the status of the guardianship in the other state. I

1 -- I -- I just at that juncture, it's enough that I don't  
2 really need to hear anything else right now.

3 I -- and I -- I hate to cut you off, but I really  
4 am hesitant to rule in granting or denying in any way to that  
5 because I -- I -- I don't know what's -- what's going on. I  
6 need more information. I need the adult protective services  
7 records from Nevada. I need the case file from North Dakota.  
8 And I -- I need those before I can even venture into making  
9 any type of decision here.

10 And I -- I want to preserve your additional  
11 substantive objections. Those are noted for the record.  
12 You've made some of them. But I -- I'm not even getting past  
13 those. I don't want to waste everybody's time with those  
14 substantive arguments that certainly we could make and deal  
15 with that another time. I just hesitate that I'm -- I -- I  
16 just don't have jurisdiction to do anything.

17 Ms. Valencia.

18 MS. VALENCIA: Yes, Your Honor.

19 THE COURT: Do you -- you agree the -- you have any other  
20 requests today? I am just inclined to continue it and make  
21 sure that the investigator has this order. I know that  
22 they're working overtime and but I can't do anything  
23 (breaking up - indiscernible) I have this file from North  
24 Dakota.

25 MS. VALENCIA: No, and I -- I understand absolutely



1 what's going on. I do -- I feel comfortable in proceeding in  
2 that we've spoken with the daughter who is the one who is  
3 appointed as a -- as the guardian -- emergency guardian. So  
4 but we don't have anything substantive to say, this is what  
5 happened. So I totally understand not moving forward.

6 Mr. Bellinger, did you have anything to add?

7 MR. BELLINGER: No, I don't. I just -- we -- we just  
8 feel that -- that she does need to have a guardian, and I  
9 didn't know if the daughter -- if her guardianship has -- h  
10 as -- is good here in Nevada.

11 THE COURT: The documents -- the documents that I have  
12 been provided and, Ms. Anderson, and, Ms. Valencia, I'll let  
13 you weigh in, the documents that I've seen are a ten-day  
14 temporary that have expired. I have not seen any additional  
15 documents that would lead me to believe that right now there  
16 is a guardianship.

17 However, the very existence of this case, the very  
18 existence of the temporary leads me to believe that there are  
19 other orders from that jurisdiction that I have not seen.

20 MS. ANDERSON: Your Honor...

21 THE COURT: I'm inclined to set it out a few weeks.

22 Go ahead, Ms. Anderson.

23 MS. ANDERSON: Sorry to interrupt you, Your Honor. I --  
24 I know that there are some issues that my client would want  
25 to be addressed today if possible.

1 THE COURT: Go ahead.

2 MS. ANDERSON: Her -- her fiancé has attempted to visit  
3 her and was able to visit her through the window a -- a few  
4 times, and it's my understanding that he is now prohibited  
5 from visiting her at all, and I -- I'm not sure why that  
6 would be, and I'm asking if the Court would allow her to have  
7 access to her fiancé.

8 Secondly, there -- the -- my client and her fiancé  
9 share finances; and when my client was admitted to the center  
10 where she is, she retained all of their account information  
11 in her possession.

12 In order for her -- obviously you know she is  
13 opposed to this guardianship and would like at some point to  
14 arranged for a handicapped accessible apartment to be rented  
15 and those kinds of things. But she at the present time can't  
16 do that personally and would like her fiancé to have access  
17 to the money that they share. It's my understanding though  
18 that when he has requested to have access to -- to their  
19 checkbook and things, he has been denied that opportunity.  
20 So I would like to ask that the Court order that -- that --  
21 that property be released to him if that's my client's  
22 request. And I can tell you that was my client's request  
23 when I last spoke with her.

24 THE COURT: I'm concerned that because I haven't made a  
25 determination about jurisdiction first that I -- I hesitate

1 and issue any order. Second, the issue pre-guardianship that  
2 a facility makes and -- and we deal with this in other ways;  
3 right? I don't make orders ordering a facility to release a  
4 person when I don't -- when I decline to issue a guardianship  
5 because that's a relationship and perhaps a separate issue  
6 that is to be litigated between patient and provider.  
7 Because I'm not making any decisions because of jurisdiction,  
8 I am hesitant to, without having jurisdiction over the  
9 protective person and that protective person being under a  
10 guardianship, making orders telling a facility what they do  
11 or do not have to do or how they have to do it especially  
12 during COVID. And so I -- I...

13 MS. ANDERSON: Your Honor.

14 THE COURT: ...I just...

15 Go ahead.

16 MS. ANDERSON: I'm sorry. I didn't mean to interrupt  
17 you.

18 THE COURT: No, that's okay.

19 MS. ANDERSON: Are -- are you aware of any orders that  
20 would give the facility any authority over my client's  
21 possessions at all?

22 THE COURT: So that is the -- I am not aware of any  
23 orders in North Dakota. Here, by me, I'm not making any  
24 order now. But it's a -- you know, a separate issue as to  
25 whether or not a person has been trespassed from a facility.

1           Certainly as I look back at the medical records and  
2 statements from doctors in reference to her fiancé, should  
3 this facility have banned him from the -- the facility, this  
4 might not be the first time his behavior has resulted in him  
5 not being able to -- to be in a medical facility. That's  
6 between him and the facility.

7           The source of this -- these finances, is my  
8 understanding, is her income. And -- and if she wants to  
9 share it and gift it with whomever she would like, then I  
10 guess she can. It's just gonna be difficult because she's in  
11 a facility and needs 24-hour care; and he was in custody for  
12 120 days; and upon his release, you know, it -- it's gonna be  
13 difficult; right?

14           If they have a joint account, I'm sure that, you  
15 know, that he might have other ways to have access to that  
16 account and speak to the bank directly. I'm just not  
17 inclined to make any order.

18           MS. ANDERSON: Understood. Thank you, Your Honor.

19           THE COURT: Ms. Valencia, anything else?

20           Mr. Carling, I assume you (breaking up -  
21 indiscernible).

22           MR. CARLING: No, just here at the pleasure of the Court.

23           THE COURT: All right. Counsel, I'd like to set this out  
24 so that we can get these documents.

25           Ms. Valencia, have you had or your office had any

1 luck with the North Dakota courts in obtaining this  
2 information?

3 MS. VALENCIA: No, Your Honor. We just have what -- we  
4 had just spoken with the daughter, and we have what she gave  
5 us.

6 THE COURT: She provided that? All right.

7 I am going to set this over for November 4th at  
8 10:30. That's in two weeks. I am going to ask our Eighth  
9 Judicial District Court Compliance Office to contact APS and  
10 the court in North Dakota to try to obtain the file and  
11 additional information, along with the investigator.  
12 Hopefully maybe we can get it a little bit quicker. That  
13 would be filed into the case in the same manner that the  
14 existing investigator.

15 Ms. Valencia, is that date not good for you?

16 MS. VALENCIA: No, it's fine. My family's talking while  
17 I'm trying to listen. So, sorry.

18 THE COURT: All right. You were looking -- you were  
19 looking very worried. So it's not about the date. It's  
20 about your family. So that's totally fine.

21 All right. Thank you, everybody. So we'll see you  
22 back on November 4th.

23 MS. ANDERSON: Thank you, Your Honor.

24 (THE PROCEEDING ENDED AT 02:48:19.)

25 ////

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and  
correctly transcribed the video proceedings in the above-  
entitled case to the best of my ability.

*Sherry Justice*  
SHERRY JUSTICE,  
COURT RECORDER/TRANSCRIBER

April 1, 2022



CERTIFIED COPY  
ELECTRONIC SEAL (NRS 1.190(3))

FILED

MAR 28 2022

*Sharon A. Johnson*  
CLERK OF COURT

ORIGINAL

TRANS

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

In the Matter of	)	CASE NO. G-21-055340-A
the Guardianship of:	)	DEPT. B
CHRISTINE JOHNSON,	)	APPEAL NO. 83912
Protected Person(s).	)	

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TRANSCRIPT RE: CITATION TO APPEAR  
THURSDAY, NOVEMBER 04, 2021

1 APPEARANCES:

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3     For the Protected Person(s):       KATIE ANDERSON, ESQ.  
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8     For the Petitioner:               SUNNY VALENCIA, ESQ.  
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1 LAS VEGAS, NEVADA

THURSDAY, NOVEMBER 04, 2021

2

P R O C E E D I N G S

3

(THE PROCEEDING BEGAN AT 10:43:33.)

4

THE CLERK: On the record.

5

THE COURT: This is the matter of the guardianship of

6

Christine Johnson, G-21-055340-A. This is Judge Linda

7

Marquis via BlueJeans. Also joining us is Ms. Anderson.

8

MS. ANDERSON: Good morning, Your Honor. Katie M.

9

Anderson. My bar number is 541 -- I'm sorry. That's my

10

Missouri -- Missouri bar number. 15153C. I'm from the Legal

11

Aid Center of Southern Nevada, and I'm the court-appointed

12

counsel for Christine Johnson. And, Your Honor, Christine

13

Johnson is present via BlueJeans here today.

14

THE COURT: Wonderful.

15

Good morning, Ms. Johnson.

16

We're so happy Ms. Anderson is with us and not in

17

Missouri, where I think maybe this morning she wants to be.

18

It -- it might be a little colder there.

19

Ms. Valencia.

20

MS. VALENCIA: Sunny Valencia, bar number 8913, here on

21

behalf of Mountain View Care Center.

22

THE COURT: Mr. Carling.

23

MR. CARLING: Matthew Carling, 7302, (breaking up -

24

indiscernible) Clark County public guardian.

25

THE COURT: Along with Mr. Judie from the Clark County

1 Public Guardian's Office. Good morning, Mr. Judie.

2 MR. JUDIE: Good morning.

3 THE COURT: Ms. Silva King -- Kingman-Silva. Ms. King-  
4 oh, did she -- I think she had a technical issue. So we'll  
5 wait for her to join back with us. She's the Court's  
6 investigator.

7 Also joining us, Ms. Funderburk.

8 MS. FUNDERBURK: Hi, I'm here. I'm a social worker for  
9 Mountain View Care Center.

10 THE COURT: Thank you so much. Let's give Ms. Kingman-  
11 Silva a moment to join back with us.

12 Counsel, has everyone had an opportunity to review  
13 her report that was filed a few days ago?

14 Ms. Anderson.

15 MS. ANDERSON: I have, Your Honor.

16 THE COURT: Ms. Valencia, Mr. Carling.

17 Ms. Kingman-Silva is back with us.

18 Ms. Kingman-Silva, can you hear us all right?

19 I think she's having connectivity issues.

20 Ms. Anderson, what's your position today?

21 MS. ANDERSON: Your Honor, if you'll indulge me, I -- I  
22 do have a...

23 THE COURT: Absolutely.

24 MS. ANDERSON: ...number of things that I want to say  
25 about our position.

1 First, I know the Court is aware that we filed an  
2 opposition. So ultimately we are opposed to the guardianship  
3 at all.

4 Secondly, Your Honor, I would like to object to the  
5 report being admitted for any other purpose other than to  
6 inform the Court as to whether it has jurisdiction and  
7 whether there are any open investigations.

8 But the substantive matters that are discussed in  
9 the report, Your Honor, I would ask that the Court not  
10 receive those as evidence because they contain hearsay,  
11 double hearsay, sometimes triple hearsay; and my client is  
12 not able to cross -- cross-examine those witnesses.

13 THE COURT: Ms....

14 MS. ANDERSON: And frankly...

15 THE COURT: Ms. Anderson.

16 MS. ANDERSON: ...the witnesses are from North Dakota,  
17 and it's unlikely those witnesses would ever appear in court.

18 THE COURT: Ms. Anderson, can I ask you -- Ms. Anderson  
19 can I ask you, does the Ruben case say just to the contrary  
20 that Judge Marquis messed up when she did not consider  
21 hearsay evidence at the citation hearing?

22 MS. ANDERSON: I understand, Your Honor. I am making my  
23 record as to why though I would ask the Court not to consider  
24 that evidence.

25 THE COURT: Sure, go ahead.

1 MS. ANDERSON: Ultimately, Your Honor, it -- it would  
2 seem to me that Mr. Achondo is a distraction to this case  
3 because it's clear that from the medical records and from the  
4 information, Your Honor, that even was contained in the  
5 report that my client has the capacity to make her own  
6 decisions.

7 The only reason that capacity has been questioned  
8 and really why we're here today is because we are questioning  
9 her decision to be in a relationship with Mr. Achondo. And  
10 whether or not we like Mr. Achondo, my client does. She  
11 loves him, and he is important to her. And just because we  
12 don't agree with that decision doesn't mean that decision  
13 indicates that she is incapacitated when all of her evidence  
14 indicates that she is. She does have the capacity to make  
15 her own decisions.

16 She -- she ultimately, Your Honor, is -- I -- I'll  
17 just be blunt; and my client knows this. She is someone who  
18 is dying. And she may or may not have months to live, and at  
19 -- at this point, I -- I am asking the Court to consider how  
20 my client should be able to spend those last few months or  
21 years of her life.

22 Should she be allowed to spend them the way that  
23 she wants to, even if we disagree with how she chooses to  
24 live those last few months or years of her life; or should we  
25 dictate the way in which she should die, frankly?

1           And I would submit to the Court that what we do in  
2 this courtroom could impact the last months or years of her  
3 life by allowing her either to be surrounded by strangers in  
4 a facility that she doesn't want to be in, receiving medical  
5 treatment, prolong what is already a terminal illness, or  
6 whether we should allow her to -- to be with the people that  
7 she loves, whether or not we think those people are good for  
8 her, allow her to be with the people that she loves in those  
9 last months of her life. I for one believe that she deserves  
10 to have that dignity in those last times of her life.

11           You might think to yourself, Your Honor, well she  
12 could still have the people that she loves around her even if  
13 she remained in the facility receiving the medical treatment  
14 that the facility feel- feels that she should receive; but in  
15 fact, she is not being allowed to -- to see or really even  
16 talk to Mr. Achondo and hasn't been for at least a couple of  
17 weeks.

18           And the Court indicated last time, I -- I brought  
19 that to the Court's attention, and the Court indicated last  
20 time that it would not interfere with the decisions at the  
21 facility because among other things, COVID, and -- and those  
22 types of things. So at this point, if she were to pass away  
23 tomorrow, it would be without having had contact with the  
24 person that she loves. And I'd just submit to the Court that  
25 that's -- I don't think the way that -- that we should be or

1 the way that the -- the law is intended to treat people in  
2 this situation.

3           So for all those reasons, Your Honor, I am asking  
4 that the Court deny the petition. And I -- I -- in -- in  
5 asking for that, again, I already made my record about the  
6 information contained in the investigative report. But I  
7 would remind the Court that there is contrary information  
8 that -- and -- and overwhelming information in the exhibits  
9 that I submitted that suggests that she has capacity, which  
10 is the key decision that the Court needs to make.

11           And if the Court does not intend to deny the  
12 petition today, we are asking for an evidentiary hearing.

13           THE COURT: Ms. Valencia.

14           MS. VALENCIA: Yes, Your Honor.

15           THE COURT: Do you have any response?

16           MS. VALENCIA: I -- I understand the -- what Ms. Anderson  
17 is saying. It's -- it's a difficult position. The reason  
18 that the facility has blocked Mr. Achondo from coming in is  
19 different reasons that have to do with the facilities rules.  
20 And maybe those can be address again.

21           I -- I read the report, and -- and of course I'm  
22 probably reading the report with an eschewed vision towards  
23 my case and -- and what I -- I believe. But it seems like  
24 that there's a history of Mr. Achondo's misbehavior and  
25 (indiscernible) understand that Ms. Anderson said that the --

1 the report had been out of hearsay; and there -- there seems  
2 to be a record contin- continually misbehaving in situations,  
3 medical situations.

4           And so my client has not let him come in for the --  
5 for the reasons, for his misbehavior. I know one of the  
6 reasons is that he -- he -- it was alleged that he doesn't  
7 have the COVID shot. And Ms. Anderson (indiscernible)  
8 reported that he had been -- had the shot. But -- but I  
9 don't think that that's the main reason why he hasn't been  
10 allowed in.

11           So I -- I get what she's saying that Ms. Johnson  
12 deserves to have the person that she loves with her; and  
13 perhaps she has some sway over the person that she loves to  
14 behave according to the rules of (breaking up -  
15 indiscernible).

16           So that's -- that's my statement. (Indiscernible).

17           THE COURT: Does anyone else on the call have any  
18 statement they'd like to make or any objections or anything  
19 else they'd like to say? Thank you.

20           I want to clarify that my statement about the  
21 facility and who they let in and don't let in to visit her is  
22 certainly applicable (indiscernible). So in that space where  
23 I have not granted a guardianship. I am not inclined to  
24 issue orders directing that certain physical care or  
25 treatment or medical care or decisions be made or followed by

1 me.

2 I think that once I either deny a guardianship or  
3 grant a guardianship, there is a certain set of rules and  
4 expectations that come into play and obligations. And so  
5 those statements that I made at the last hearing, should be  
6 construed in that time and space of perhaps a guardianship  
7 purgatory where I am unwilling to micro-manage the medical  
8 decisions of a facility certainly.

9 I think that this is a very difficult case. I  
10 think that all of you know that I believe that time at the  
11 end of life is sacred. That a protected person's wishes  
12 become even more important. And their requests and desires  
13 during that time (breaking up - indiscernible) are generally  
14 really important to me.

15 However, even as I say that, right, like none of us  
16 know when the -- those last moments of our life will be. So  
17 it's the entirety of our lives where a protected person or a  
18 proposed protected person's request should be given great  
19 weight and extraordinary deference.

20 I believe that under Rubin I am required to  
21 consider all of the evidence produced at the citation hearing  
22 that we have been provided with certain documents from Ms.  
23 Anderson in her opposition. And the Court notes her  
24 opposition outlines certainly her point of view on several  
25 issues, including some of those that she has shown today, but



1 -- but other issues, as well. And I considered those.

2 We also have in addition to the physician's  
3 certificate, the investigator's report. While I acknowledge  
4 the investigator's report contains information from adult  
5 protective services in a North Dakota court and proceedings  
6 and represents perhaps information or events that happened as  
7 much as one year ago whereas the medical records provided  
8 represent information that's more current.

9 I note that the information contained in the APS  
10 reports from Nevada and North Dakota do though assist in  
11 providing the Court additional information. I'm gonna note  
12 that all of these documents and information represent  
13 business records. They are records produced not for this  
14 litigation and are represent records that were created  
15 consistent with the events unfolding at the same time that  
16 they were requested by us after the fact.

17 Certainly the Court can take notice of the  
18 proceedings in North Dakota. Certainly one of my concerns  
19 was the issue of jurisdiction. I am satisfied regarding the  
20 issue of jurisdiction. I appears conclusively and no one has  
21 argued today from reviewing those North Dakota records that  
22 there is an ongoing and active North Dakota guardianship or  
23 that there's an ongoing and active case in North Dakota.  
24 That temporary emergency guardianship expired. Action was  
25 taken.

1           The protected -- proposed protected person moved to  
2 Las Vegas, and she has resided here for some time. Certainly  
3 the jurisdiction requirement has been met. And I'm satisfied  
4 with that issue. However, I think under Rubin that that  
5 (breaking up - indiscernible) records and the North Dakota  
6 records can also be considered by the Court for things other  
7 than the issue of jurisdiction by the Court; and the Court  
8 can consider them in this case.

9           The issue of capacity when we talk about capacity,  
10 that word means different things to different people relative  
11 to different actions. Capacity to make decisions, capacity  
12 to execute the power of attorney, those issues of capacity  
13 are separate and distinct from the issues presented in 159.  
14 159 describes and defines incapacity as unable to receive and  
15 evaluate information or make or communicate decisions to such  
16 an extent that the person lacks the ability to make the  
17 essential requirements for physical health, safety or self  
18 care without assistance, as -- which is different from other  
19 definitions of the same word capacity used in different  
20 settings.

21           Here, that definition has a lot of force based on  
22 the totality of the information that's been presented to me  
23 today. I'm declining to set it for an evidentiary hearing.  
24 I've reviewed a lot of information. I am not making this  
25 decision based upon the proposed protected person's love of

1 or relationship with her partner. I am certain that there  
2 are members of my family who do not adore my partner. That  
3 is not a reason in and of itself and it's quite common in  
4 families.

5           The issue is whether or not -- and I'm finding that  
6 she cannot receive and evaluate information to an extent that  
7 creates in her the inability to meet the essential  
8 requirements for her physical health, safety and self care  
9 without assistance.

10           The disease that she's suffering from is a horrible  
11 disease. Her prognosis for recovery is poor. There is  
12 certainly an ability for her to weigh in about how she would  
13 like to receive treatment and whether or not she rejects  
14 treatment that might prolong her illness or delay her  
15 passing, certainly. However, she is unable to care for her  
16 physical health, safety and provide herself self care because  
17 she lacks the ability to receive and evaluate de- information  
18 to make those decisions.

19           And so for those reasons, I am going to grant the  
20 guardianship. I am with the provision that -- and I'm not  
21 sure this fits into a box of our form; but as Ms. Anderson  
22 points out, ALS is a unique, disabling, horrible disease.  
23 But although it -- it impacts her speech, she's still able to  
24 communicate. And she still has, I believe, the capacity to  
25 weigh in and make sure that her voice is heard as to whether

1 or not she wants those treatments.

2 I believe that the doctors discussed two treatments  
3 available at ALS clinics that would prolong her life or maybe  
4 reduce the impact of her symptoms or reduce the speed at  
5 which ALS progresses. That included infusions and another  
6 form of treatment.

7 Mr. Carling, as to the decision making as to  
8 whether or not she receives the fus- infusions or the other  
9 treatment, I'd like to review the recommendations and allow  
10 her to make that decision with the guardian. Ms. Anderson,  
11 if they all agree and the doctors agree and the guardian  
12 agrees and Ms. Johnson agrees and we're all on the same page,  
13 get me a stipulation; and I'll sign off on it.

14 I really want to make sure that Christine has the  
15 ability to communicate and have her voice really heard about  
16 how she spends and in what condition she spends this last  
17 time. And I know that her speech is impacted but that she's  
18 still able to communicate.

19 I think ALS is a unique disease in that regard.  
20 And so I'd like to see what the specific physicians  
21 recommend, one of the other treatment or just one treatment  
22 or whether or not those treatments are available at this  
23 juncture.

24 Mr. Carling, I'll have an order appointing with the  
25 limiting language and a separate order of findings of fact,

1 conclusions of law for signature from everyone else.

2 Anything else I can do today? Thank you, everyone.

3 UNIDENTIFIED SPEAKER: Your Honor.

4 (THE PROCEEDING ENDED AT 11:04:53.)

5

6

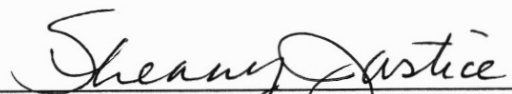
\* \* \* \* \*

7

8 ATTEST: I do hereby certify that I have truly and  
9 correctly transcribed the video proceedings in the above-  
10 entitled case to the best of my ability.

11

12

  
SHERRY JUSTICE  
COURT RECORDER/TRANSCRIBER

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April 1, 2022

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FILED

MAR 28 2022

*Sherry Justice*  
CLERK OF COURT

CTNC

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

In the Matter of ) CASE NO. G-21-055340-A  
the Guardianship of: ) DEPT. B  
)  
CHRISTINE JOHNSON, ) APPEAL NO. 83912  
)  
Protected Person(s). )  
\_\_\_\_\_ )

CERTIFICATION OF TRANSCRIPTS/NOTIFICATION OF COMPLETION

The office of Transcript Video Services received an order for preparation of transcripts, for the purpose of appeal, for the following proceedings in the above-captioned case:

SEPTEMBER 23, 2021; OCTOBER 21, 2021; NOVEMBER 04, 2021

I do hereby certify that true and accurate copies of the transcripts requested in the above-captioned case were filed with the Eighth Judicial District Court on March 28, 2022, and ordering party was notified March 28, 2022.

DATED this 28th day of March, 2022.

*Sherry Justice*  
SHERRY JUSTICE  
Transcript Video Services