

THE STATE OF NEW HAMPSHIRE

STRAFFORD COUNTY

TRUST DOCKET  
7TH CIRCUIT COURT  
PROBATE DIVISION

IN RE JEANNETTE MARINO

317-2015-AP-0001

Having considered the Proposed Consent Decree submitted by Professional Guardian Jeannette Marino in the above matter, I am unwilling to accept the proposed sanctions. Accordingly, the process set forth in the Assignment Order dated October 22, 2015, shall resume to completion.

February 12, 2016



Edwin W. Kelly, Administrative Judge  
New Hampshire Circuit Court

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CONSENT DECREE

INTRODUCTION

1. Jeannette Marino submits this Consent Decree for review and approval by the Honorable Judge Edwin Kelly, Administrative Judge of the Circuit Court for the State of New Hampshire. By this Consent Decree, Jeannette Marino acknowledges the Court's findings as determined in two separate matters before the Circuit Court, to wit In Re: Guardianship of η (Case Number 317-2011-GI. (Judge Leonard)) and In Re: of.) (Case Number 317-2013-GI. Judge King)).

OVERVIEW

2. By letter dated September 24, 2015 from Administrative Judge Edwin Kelly to Jeannette Marino, Judge Kelly identified two matters in which the Court had made certain findings against Jeannette Marino in her capacity as a guardian for two separate wards. By this correspondence, the Court indicated that it would conduct a non-evidentiary administrative hearing on October 23, 2015 to consider whether and what sanctions should be imposed, including whether Ms. Marino should be removed from the list of approved guardians, pursuant to Administrative Order 16. See September 24, 2015 correspondence at 3.

3. In response to Judge Edwin Kelly's September 24, 2015 correspondence, Ms. Marino (through her counsel, David P. Eby), made certain requests including a request that due

process be afforded to ensure a fair hearing. See October 19, 2015 correspondence from David P. Eby to the Honorable Edwin Kelly (the "Eby Letter").

4. By assignment dated October 22, 2015, Judge Edwin Kelly specially assigned the instant matter to Judge Gary Cassavechia for the purpose of conducting "administrative proceedings concerning the appropriate sanctions, if any, to be imposed upon [professional guardian Jeannette] Marino, and make recommendations regarding [those] sanctions to the Administrative Judge." See October 22, 2015 Assignment.

5. By Scheduling Order dated November 23, 2015 (a copy of which is attached as Exhibit A), Judge Gary Cassavechia provided an overview of the Court's initial thoughts regarding the request for further hearing and the other concerns raised in the Eby Letter. Judge Cassavechia noted the Court's sense that any recommended sanction is not intended as a mode of inflicting punishment for an offense, but rather its purpose is to protect the public, in particular vulnerable wards whose well-being the Court is charged with promoting and protecting. See November 23, 2015 Order at 2. Judge Cassavechia noted the lack of authority regarding the process for sanctions as against a court-appointed guardian in the State of New Hampshire. The Court noted that removal from the list of approved guardians for noncompliance with any criteria for professional guardians or for good cause as determined by the Probate Court Administrative Judge could be warranted, but also suggested that a lesser form of sanction could be appropriate, noting that the Court would utilize the analytical framework undertaken in attorney matters, as professional guardians are appointed by the courts. Id. at 5, footnote 4.

6. A structuring conference was held before Judge Gary Cassavechia on December 18, 2015, at which point the Court and counsel for Jeannette Marino further discussed various procedural and related issues. During this structuring conference, counsel for Jeannette Marino

raised, among other things, the possibility of a process through which a negotiated resolution might be reached. It was determined by the Court that Ms. Marino would be allowed to submit a Consent Decree to Judge Cassavechia, who agreed to then forward that proposed Consent Decree to Judge Edwin Kelly for review and possible agreement. Since Judge Gary Cassavechia has been charged with providing a recommendation only for Judge Kelly's review, the Court determined that Judge Cassavechia would not otherwise engage in settlement discussions or review of this Consent Decree.

**THE AND MATTERS AND SANCTIONS TO BE IMPOSED**

7. The Court has made numerous factual and legal findings against Jeannette Marino in two separate matters (In Re: Guardianship of, [Judge Leonard] and In Re: Guardianship of, [Judge King]). Jeannette Marino does not challenge these findings and rulings.

8. As part of its rulings, the Court in the matter ordered the immediate removal of Jeannette Marino as guardian over

9. In the matter, the Court ordered repayment of \$4,800 of Jeannette Marino's guardian fees to the extent they had not been submitted for court approval. Jeannette Marino has complied with this order.

10. By letter dated September 30, 2014, Judge Edwin Kelly requested that Jeannette Marino forward a list of all cases in which she was then serving as a professional guardian, providing the name of the ward, date of appointment, docket number and authority, and the date on which she last personally visited with the ward. Jeannette Marino responded with the requested information by letter to Judge Kelly dated October 9, 2014. Jeannette Marino agrees that this Court may continue to review these guardianship files to ensure compliance with

appropriate National Guardianship Association Standards and other applicable rules and standards.

11. Jeannette Marino is directed to follow the following protocol should she seek to transfer or move any of her court appointed wards:

Except in emergency or other exigent circumstance (for a two year period commencing from the date of this Consent Decree) before moving her court appointed ward, Jeannette Marino shall (a) file a pleading with the appropriate Probate Division in which she will request approval of her proposed move for the ward and providing factual information she deems necessary for the Court's review; (b) obtain a note from the ward's treating physician providing an opinion as to whether the proposed move or transfer is reasonable in the physician's opinion, and also whether in the treating physician's opinion the ward should be notified of the impending move; and (c) notify the court-appointed guardian's care providers and/or care team of the proposed move at least ten (10) days prior to the proposed move date.

12. Jeannette Marino shall register for, pay for and take the Master's exam through the National Guardianship Association Standard's Board, and shall provide proof to the Court that she passed the Master's exam. Such proof shall be forwarded to Judge Edwin Kelly at the Administrative Office of the Courts with 120 days of the date of this Consent Decree. Failure to pass this exam and failure to comply with this provision shall result in further potential sanctions by the Administrative Office of Courts and may result in further proceedings.

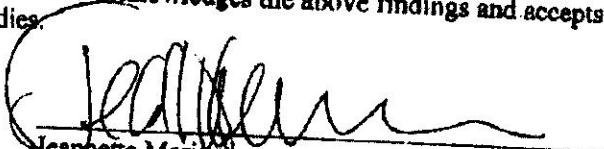
13. The Court hereby admonishes Jeannette Marino. This Consent Decree shall remain in Jeannette Marino's file with the Administrative Office of the Courts.

14. Jeannette Marino has reviewed this Consent Decree, and agrees to the sanctions and remedies set forth above in full.

15. Nothing in this Consent Decree shall, in and of itself, warrant Jeannette Marino's removal from the list of approved guardians in the State of New Hampshire.

By her signature below, Jeannette Marino acknowledges the above findings and accepts the above-referenced sanctions and remedies.

Dated: 1/21/16

  
Jeannette Marino

The above findings are acknowledged and the above sanctions and remedies are accepted by the Administrative Office of the Courts.

Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Edwin Kelly, Administrative Judge