

CITATION: GJR [2017] QCAT 91

PARTIES: GJR

APPLICATION NUMBER: GAA1668-17

MATTER TYPE: Guardianship and administration matters for adults

HEARING DATE: On the papers

HEARD AT: Brisbane

DECISION OF: Senior Member Endicott

DELIVERED ON: 15 February 2017

DELIVERED AT: Brisbane

ORDERS MADE:

1. The Public Guardian is appointed as guardian for GJR for the following personal matters only:
 - a. Accommodation decisions;
 - b. With whom GJR has contact and/or visits;
 - c. Health care of GJR; and
 - d. Provision of services for GJR.
2. The Tribunal directs the guardian to provide a written account of their actions as guardian to the Tribunal no later than three (3) working days prior to the hearing.
3. This guardianship appointment remains current for three (3) months or, if the Tribunal makes a further order in this matter, until the date of the further order, whichever is the sooner.
4. The Public Trustee of Queensland is appointed as administrator for GJR for all financial matters.
5. The Tribunal directs the administrator to provide a written account of their actions as administrator to the Tribunal no later than three (3) working days prior to the hearing.

6. This administration appointment remains current for three months or, if the Tribunal makes a further order in this matter, until the date of the further order, whichever is the sooner.
7. That before 15 March 2017, the administrator must:
- a. Search the records of the Registrar of Titles to identify any property registered in the adult's name;
 - b. Give the registrar of titles a copy of this order and a notice to the registrar advising that any interest in property held by the adult is subject to this order;
 - c. Give to the Tribunal:
 - i. A copy of the "Lodgement Summary Form" from the Titles registry confirming the notice has been lodged for each property held by the adult; and
 - ii. A copy of the current title searches.
8. If the ownership of any property of the adult changes in any way or the adult acquires an interest in another property, the administrator must within fourteen (14) days of such changes:
- a. Give a copy of this order to the Registrar of Titles; and
 - b. Give a notice to the Registrar about the changes or the adult's interest in another property.

CATCHWORDS:

GUARDIANS, COMMITTEES, ADMINISTRATORS, RECEIVERS AND MANAGERS – APPOINTMENT – where adult in hospital and is not safe to return to his home – where adult was diagnosed with dementia after suffering a stroke – where adult vulnerable to financial abuse due to sending large amounts of money to overseas internet scams– where interim appointment of decision-makers sought – whether the adult was at an immediate risk of harm

Guardianship and Administration Act 2000
(Qld) s 12(1), s 129.

APPEARANCES:

This matter was heard and determined on the papers pursuant to s 32 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) (QCAT Act).

REASONS FOR DECISION

- [1] GJR, who is 83 years of age, is an inpatient at a regional hospital because of a stroke and a decline in cognition. Evidence presented to the Tribunal stated that GJR had been involved in two separate car accidents on the day of his stroke and was taken to hospital by the police. GJR has no recollection of what happened.
- [2] An application was filed in QCAT on 14 February 2017 by a social worker, Allana Jackson, in which she applied for the appointment of a guardian and an administrator for GJR. Such appointments are made after a hearing has been held and the Tribunal is satisfied that the factors set out in s 12(1) of the *Guardianship and Administration Act 2000* (Qld) (GAA) have been satisfied. Those factors require the Tribunal to be satisfied that the adult in question has impaired decision-making capacity for the matter, that there are decisions that need to be made, and that appointing a decision-maker is necessary to give adequate support to the adult in the decision-making process.
- [3] Allana Jackson also applied for an interim appointment of a guardian and administrator for GJR for personal and financial decisions. Appointments of decision-makers can be made prior to a determination being made on the substantive applications if the Tribunal is satisfied that the requirements of s 129 of the GAA are established. That section provides that where there is an immediate risk of harm to the welfare or financial resources of the adult, an appointment can be made for up to three months before a hearing of the applications are heard and determined.
- [4] The applicant states that GJR shows no insight into his lack of awareness. She states that he does not understand that he is no longer permitted to drive a vehicle as he continues to state that he will go home to collect his car. GJR has been assessed by an occupational therapist for tasks such as crossing the road. The assessment demonstrated that GJR has no awareness of road safety and could have been run over if he had not been restricted by staff. The applicant states that GJR has regularly attempted to abscond from the hospital ward and so the staff have been forced to lock doors on occasions to prevent his exit.
- [5] The applicant also states that GJR has refused to accept ongoing concerns and advice concerning his financial decisions. He has been participating in international internet scams over the last several years through which he has sent at least \$200,000 to an African country. The

applicant states that on the day of his admission to the regional hospital, GJR was seeking to pay further funds to these scams and had refused to take any advice or instruction from his partner. The applicant states that GJR currently has outstanding debts owing for loans, and his internet and phone services have been disconnected because of unpaid bills. GJR has mortgaged his house to raise funds to send to the internet scams.

- [6] Evidence was provided to the Tribunal by Dr Alix Pichon. Dr Pichon stated that the collateral history presented by GJR's family and GJR's general practitioner support a diagnosis of a dementia syndrome from a previous stroke. Because of his most recent stroke, Dr Pichon stated that GJR has sustained additional cognitive and physical deficits.
- [7] Evidence was also provided to the Tribunal by Dr Sarah Russell, a neuropsychologist. She provided two reports dated 3 February 2017 and 7 February 2017 concerning her assessment of GJR. She obtained a collateral history of GJR from his partner, and his partner's daughter reporting uncharacteristic behaviours and personality changes over the past three years. After meeting with GJR, Dr Russell reported that GJR continues to deny the impact of his visual deficits on functioning despite struggling with simple tasks at the bedside such as trying to use a mobile phone and turning off the television. She identified areas of cognitive impairment including executive dysfunction.
- [8] For the purposes of the interim order application, I accepted the evidence of Dr Pichon that GJR had previously been diagnosed with a dementia syndrome. I concluded from the evidence from Dr Pichon and Dr Russell that GJR demonstrates impaired cognitive functioning that adversely impacts on his ability to understand the nature and consequences of decisions about financial and everyday personal matters.
- [9] The evidence satisfied the Tribunal that GJR was at an immediate risk of harm from financial exploitation and that he required some immediate formal support for decision-making about all financial matters. He had placed himself at risk of harm by sending large sums of money to internet scams, he had incurred debts and he had mismanaged his finances so that he had failed to pay his overdue internet and phone bills resulting in services being discontinued. GJR was trying to make further payments to the scams when he was admitted to hospital and he demonstrates continuing lack of insight into the financial risks to which he is exposed.
- [10] The Public Trustee of Queensland was appointed on an interim basis for three months to make all financial decisions for GJR.
- [11] The Tribunal was also satisfied on the evidence that GJR's welfare was at an immediate risk of harm and that he required some immediate formal support for decision-making about personal matters. The evidence demonstrates that GJR has limited insight into medical issues because of his cognitive and neurological deficits. He tries to abscond from the hospital ward and he wants to return home but the evidence reveals he cannot carry out simple everyday tasks and he would not be likely to be

safe at home while his insight into the extent of his cognitive and physical deficits is impaired.

- [12] The Public Guardian was appointed on an interim basis for three months to make personal decisions for GJR about accommodation decisions, with whom GJR has contact and/or visits, health care, and the provision of services.