

Conservatorship Case Study: Theresa M. Jankowski

Short Answer Questions

Instructions: Answer each question in 2-3 sentences.

1. What was the initial concern raised by Thomas F. Coleman regarding Theresa Jankowski's case?
2. Describe the evidence presented by the police detective specializing in elder abuse regarding Theresa's capacity to make decisions.
3. According to Coleman, what is the core principle of the Americans with Disabilities Act (ADA) that is relevant to this case?
4. What specific actions did Coleman recommend to the Los Angeles County Superior Court in his initial letter?
5. What is the significance of the "dual role" that court-appointed attorneys were allegedly playing in conservatorship cases, according to Coleman?
6. What legal and ethical concerns did Coleman raise about Mr. Risley, the court-appointed attorney for Theresa Jankowski?
7. What was Judge Thornton House's response to Coleman's initial letter of concern?
8. How did Judge Cowan initially respond to the concerns raised by Coleman?
9. What specific statements made by Judge Cowan during a 2014 training seminar raised concerns about his impartiality in conservatorship cases?
10. What legal grounds did Coleman cite for requesting Judge Cowan's recusal from the case?

Short Answer Key

1. Thomas F. Coleman expressed concern that Theresa Jankowski's court-appointed attorney, Mr. Risley, was not adequately representing her interests and may have violated her rights. He pointed to evidence suggesting Mr. Risley prioritized the fiduciary's wishes over Theresa's own wishes and well-being.
2. The police detective stated that, based on his investigation and conversations with Theresa, she was capable of understanding and answering questions. He concluded she was being taken advantage of and was not in need of a conservatorship.
3. The core principle of the ADA relevant to the case is the right of people with disabilities to access justice. This includes the right to have their wishes and preferences considered in legal proceedings, especially those involving their personal liberty and finances.
4. Coleman requested the court to review the evidence presented by the Private Professional Valuator (PPV), to remove Mr. Risley as Theresa's attorney, and to appoint a new attorney who would effectively advocate for her wishes and rights.
5. The "dual role" refers to court-appointed attorneys acting as both advocates for their clients and as "eyes and ears of the court." Coleman argues this creates a conflict of interest as attorneys may prioritize pleasing the court over advocating for their clients, especially in cases where the court favors conservatorship.
6. Coleman stated that Mr. Risley violated ethical and legal standards by sharing confidential client information with the petitioner and fiduciary, failing to adequately communicate with Theresa, and prioritizing the fiduciary's wishes over hers. This conduct, Coleman argued, constituted disability discrimination.
7. Judge Thornton House reviewed Coleman's letter and scheduled a hearing to address the issues raised.
8. Judge Cowan transferred the case to another judge for the hearing, but ultimately took it back and proceeded with the case without addressing the concerns raised about Mr. Risley or the potential bias in favor of conservatorship.

9. Judge Cowan, during a training seminar, instructed attorneys to be the "eyes and ears of the court" in conservatorship cases. This statement, according to Coleman, implied a bias towards conservatorship and suggested a preference for attorneys who aligned with the court's perspective over advocating for their clients.
10. Coleman argued that Judge Cowan's statements and actions demonstrated a potential bias in favor of conservatorship, which could impede his ability to impartially consider the evidence and rule fairly in Theresa's case. He cited the California Code of Judicial Ethics, specifically Canons 2 and 3, which address promoting public confidence and disqualification due to bias.

Essay Questions

1. Analyze the ethical dilemmas faced by court-appointed attorneys in conservatorship cases. How might the "dual role" concept impact the attorney-client relationship and the overall fairness of the proceedings?
2. Evaluate the role of expert testimony in conservatorship cases, using Theresa Jankowski's case as an example. How can expert opinions contribute to or potentially distort the court's understanding of an individual's capacity for decision-making?
3. Discuss the potential impact of bias within the judicial system on the outcomes of conservatorship cases. Consider the arguments presented by Thomas F. Coleman and analyze the safeguards that exist to ensure impartiality in legal proceedings.
4. Explore the tension between individual autonomy and the need to protect vulnerable individuals through legal mechanisms like conservatorship. How can the legal system strike a balance between safeguarding individual rights and ensuring necessary protections for those who may require assistance?
5. Analyze the role of advocacy organizations like the Spectrum Institute in addressing systemic issues within the judicial system. How can such organizations contribute to improving access to justice for individuals with disabilities and other marginalized groups?

Glossary of Key Terms

Conservatorship: A legal process where a court appoints a person or organization (conservator) to manage the personal, financial, and/or medical affairs of an adult deemed unable to care for themselves or their property.

Fiduciary: A person or organization legally appointed and entrusted to manage assets or property for the benefit of another party. They have a duty to act in the best interest of the beneficiary.

Private Professional Valuator (PPV): A neutral third party, often with expertise in social work, psychology, or law, appointed by the court to evaluate an individual's capacity and needs in conservatorship cases.

Americans with Disabilities Act (ADA): A federal law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all places open to the general public.

Due Process: The legal requirement that the government must respect all legal rights owed to a person, ensuring fair treatment and a right to be heard before the government can deprive someone of life, liberty, or property.

Conflict of Interest: A situation in which a person or organization is involved in multiple interests, one of which could possibly corrupt the motivation for an act in the other.

Recusal: The act of a judge or other official withdrawing from participation in a case or proceeding due to a conflict of interest or the appearance of bias.

California Rules of Court: A set of rules that govern court procedures in California, including those related to conservatorship cases.

California Code of Judicial Ethics: A set of ethical guidelines for judges in California, addressing issues such as impartiality, fairness, and the appearance of impropriety.