

GUARDIANSHIP AND ADMINISTRATION BOARD
LAUNCESTON

MS B.K.W. on the application of Dr C, Psychiatrist

GAB No. XXXX of 2004

REASONS FOR DECISION

Susan Hill (Chair)
XX (Board member)
XX (Board member)

17 June 2002

Guardianship – consent to medical treatment – represented person with psychiatric illness refusing medication or cooperation with medical practitioners – plenary order as a last resort – principles of least restrictive alternative best interests and the person’s wishes considered – appointment of Public Guardian

Guardianship and Administration Act 1995 (Tas), ss 3, 6, 19 and 20

1. This is an application for Guardianship pursuant to section 19 of the Guardianship and Administration Act 1995.
2. The proposed represented person is 41 years of age . She is a single woman in receipt of Disability Support Pension, who suffers from complex partial epilepsy with severe psychiatric symptoms. Medical reports and oral evidence indicate that this condition is long-standing and chronic.
3. Ms B.K.W. has been the subject of emergency orders under section 65 made by the President on Dr C’s applications. This hearing is for a full order, again on Dr C’s application. Persons present at the hearing were the Board members listed above, Ms B.K.W., her brother, H.W., Dr C, and Kevin Preece, representing the Public Guardian.
4. The Board had access to a number of medical reports including the pro forma Health Care Professional Report prepared for the hearing by Dr C. They

detailed Ms B.K.W.'s symptoms, including delusions and psychotic experiences and the dangerous situations these led to.

5. Examples of these dangerous situations included an incident just prior to admission she had been walking in the roadway and was struck by a car. There was a statement from a police officer, Constable Smith, who was at the scene and had also interviewed persons who had seen her jaywalking dangerously on other occasions.
6. Ms B.K.W., however, denied this incident (despite head injuries and the ambulance being required) saying that she was talking to God and having a spiritual experience. She was very angry that all her actions had been misinterpreted and the police had been called. She stated that she did not have epilepsy or any mental illness and would definitely not be attending any more for medication. As far as Ms B.K.W. was concerned, the doctors were exploiting her to make money and she did not like any of them.
7. At the hearing, Dr C spoke to his reports, expressing extreme concern for Ms B.K.W., particularly if she were off medication, when he believed she would be at great risk of harm. There was no contradictory medical evidence.
8. H.W. said that Ms B.K.W. had an almost lifelong diagnosis of epilepsy and that her psychotic episodes were disturbing and dangerous, seeming only to be controlled to some degree by medication. He expressed relief that the application had been brought.
9. Kevin Preece said that since the emergency orders were in place and she'd had medication, he'd noticed a big change in Ms B.K.W.. When Mr Preece tried to assure her of this, Ms B.K.W. remained adamant that she was not ill and did not need medication. She was quite vociferous as to this and made it clear that she was very angry with all concerned.

10. There were no matters agreed upon between the parties. Ms B.K.W. totally disagrees with Dr C (or any other doctor) and her brother, H.W. Her beliefs are immutable, apparently whether she is on medication and relatively well or not.
11. **DISABILITY – SECTION 3 (1) and SECTION 20 (1) (a)** Clearly Ms B.K.W. has a disability within the terms of Section 3. She has a form of complex longstanding epilepsy and in addition extreme episodes of psychotic behaviour, which may be linked. As medical evidence shows, her long refusal to cooperate with doctors makes it difficult to be certain about any link. In any event, she displays dangerous and abnormal behaviour, which puts her at risk and has led to harm.
12. **INCAPACITY – SECTION 20 (1) (b)** Within the context of the application for guardianship, this clearly refers to an inability, by reason of the disability to make reasonable judgments. In this case, it would be constituted by Ms B.K.W.'s total inability to appreciate that she has an illness, which causes her to put herself at risk, and her consequent extreme resistance to medical treatment and medication.
13. As to other matters, such as finances, these were not raised, although Ms B.K.W. told the Board members that she only has her pension, which she manages and her needs are relatively simple. This was not disputed.
14. **HER WISHES** Ms B.K.W. wishes to be left alone without the “ interference “of doctors and without medication. However, every time this has happened, she has become ill. She has had 4 admissions to Ward 1E, the LGH Psychiatric Ward, in 2002 to date. She sometimes put herself at serious risk through her bizarre behaviour.
15. **LEAST RESTRICTIVE ALTERNATIVE** The Board was asked to make a plenary guardianship order in this application. Plenary guardianship orders are only ever made as a last resort. In any event, the Board would require firm evidence of various lifestyle issues being involved (eg accommodation, safety

within the community etc). A limited guardianship order is least restrictive for Ms B.K.W.. Kevin Preece advised that he does not intervene unless there is a crisis situation with refusal of medication. In those circumstances, he is contacted by a Social Worker from the LGH, or Dr C from Ward 1E. If her medication can be stabilised and she can become relatively well, she could attempt a return to University and her flat. The alternative seems to be bouts of illness, stays in Ward 1E and possibly life threatening risk taking. This diminishes her quality of life.

16. **BEST INTERESTS** Ms B.K.W.'s best interests are served in the discussion above regarding the least restrictive alternative. The proposed course may allow Ms B.K.W. to remain well enough to lead something approaching a normal life, within limitations.
17. **PUBLIC GUARDIAN** The representative, Kevin Preece, is experienced in these matters and familiar with Ward 1E and staff. He is also well capable of assessing situations as they arise and taking appropriate action.
18. The Board accepted the evidence from Dr C and also H.W. that Ms B.K.W. has a longstanding chronic illness in the form of epilepsy and severe psychosis. It further accepted the evidence of all parties, save Ms B.K.W. that she can function markedly better if on medication and tends not to put herself at risk if medication is stabilised.
19. There was no dispute that the road walking incidents and the subsequent accident occurred, and the Board accepts this. It notes however, that Ms B.K.W. interpreted the incidents very differently, as a spiritual experience. Consequently, the Board is of the view that Ms B.K.W.'s behaviour can pose risks, not only to herself, but inadvertently even to others. The Board noted Ms B.K.W.'s attitude to doctors and her adamant denial of illness and refusal of medication. She has started a University course and is clearly intelligent and well spoken, but at present cannot function as she might like if she was thinking rationally.

20. The key is obviously her refusal to have medication or any medical treatment. If a guardian is appointed, this treatment can be authorised, so that hopefully she can be as well as she is able. It may well be, after hearing general discussion, that there are other lifestyle issues with which the Public Guardian can assist, and if so, these can be brought back to the Board. However a full guardianship order is not appropriate at this stage.
21. The evidence of all parties was appreciated and Ms B.K.W.'s feelings noted.
22. **COMMENT** Ms B.K.W., apart from being quite ill, seems to be a loner, who likes to be on her own. She has little support from, or contact with her family. Dr C was surprised that H.W. attended. She seems to have few if any friends. Her anger is apparently virtually permanent, although it fluctuates in degree, and perhaps this also needs addressing.

CONCLUSIONS

- (a) Ms B.K.W. has presented as being very ill and other evidence confirms this.
- (b) Ms B.K.W. needs medication to have any sort of functioning or fulfilling life as well as to be safe.
- (c) Ms B.K.W. adamantly refuses medication.
- (d) The Public Guardian can consent to the medication being administered and medical treatment.

THE BOARD ORDERS

1. That the Public Guardian be appointed guardian of the represented person
2. That the powers and duties of the guardian are limited to decisions concerning consent to any health care that is in the best interests of the represented person and to refuse or withdraw consent to any such treatment.
3. That the guardianship order remains in effect to 16 June 2005.

Susan Hill (chair) XX and XX (Board Members)