
*State of Minnesota
District Court—Probate
Court Division
County of Hennepin
Fourth Judicial District*

In Re: The Conservatorship of
Helga M. Wanglie

File No. PX-91-283

Findings of Fact:
Conclusions of Law And Order

This matter was heard commencing May 28, 1991, and through May 31, 1991, by the Honorable Patricia L. Belois, Judge of the District Court, Probate Court Division. Hearing was held upon the Second Amended Petition for Appointment of Terrence Larpenteur as General Conservator (Person Only) filed on May 14, 1991, by Steven H. Miles, M.D., Petitioner, and upon the Amended Petition for Appointment of a Guardian (Person and Estate) filed May 2, 1991, by Oliver Wanglie, Petitioner. Petitioner Miles was present and was represented by Michael B. Miller, Assistant Hennepin County Attorney. Petitioner Wanglie was present and was represented by Barry William McKee, Attorney at Law. The proposed Conservatee/Ward was excused from attending the hearing pursuant to the Statement of her Attending Physician, Craig Peine, M.D. She was represented by her court-appointed counsel, William L. H. Lubov, Attorney at Law.

Based upon the file and record herein, the Court makes the following:

Findings of Fact with Regard to Helga Wanglie

1. The proposed Conservatee/Ward, Helga Wanglie, is eighty-seven years old. She has been married to Oliver Wanglie for fifty years

and is the mother of two adult children, David Wanglie and Ruth Wanglie.

2. Helga Wanglie is a well-educated woman, a graduate of St. Olaf College with advanced certification from the Minnesota Business College and a master's degree from St. Thomas College.

3. Helga Wanglie is a devout Lutheran and a dedicated churchwoman who served her congregation for many years as a Sunday school teacher, a member of the library board and a participant in Operation Love.

4. The religious beliefs of Helga Wanglie and her husband are congruent, of long standing, firmly held and consistent.

5. Until December, 1989, when she tripped over a rug in her home and broke her hip, Helga Wanglie drove a car, kept house, prepared meals, read the newspaper, and otherwise enjoyed life with her husband and family to the fullest.

6. From time to time, Helga Wanglie had discussions with her husband and son about the meaning of life and the use of life-sustaining medical treatments which were triggered by something one of them read or by news about the illness of a friend or acquaintance. No evidence suggests Helga Wanglie considered the possibility that she would be afflicted exactly as she now is, or that she would ever become ventilator-dependent.

7. Helga Wanglie is incapable of interacting with other people at this time. She is unable to establish new relationships.

8. Helga Wanglie does not have a living will. She no longer has the capacity to express a preference for one person or another to become her Conservator.

9. Helga Wanglie is not a patient in a state hospital for the mentally ill or a mentally retarded or dependent or neglected ward of the Commissioner of Human Services or under the temporary custody of the Commissioner of Human Services.

Findings of Fact with Regard to Petitioner Steven H. Miles, M.D.

1. Steven H. Miles, M.D., (Miles) is a physician licensed to practice medicine in the State of Minnesota. He is a board certified internist and a gerontologist. He is a member of the Hennepin County Medical Center Ethics Committee.

2. He has been a consultant to the physicians treating Helga Wanglie on issues of medical ethics since October, 1990. He was also an ethical consultant to physicians caring for her in June, 1990, when the feasibility of cardiopulmonary resuscitation for Helga Wanglie was discussed. Other medical ethicists have also consulted with the treating physicians during Helga Wanglie's extensive hospitalization.

3. At no time when Helga Wanglie was conscious and able to express her own wishes did any physician or staff member at the Hennepin County Medical Center discuss her treatment preferences with her.

4. Other than proving that Oliver Wanglie does not accept the advice and counsel of the physicians treating Helga Wanglie and refuses to consent to remove the ventilator which breathes for her, Miles has offered no evidence that Oliver Wanglie is incompetent to discharge the trust as Conservator of the Person of his wife.

5. Miles has petitioned the Court to appoint an independent conservator to make medical care and abode choices for Helga Wanglie.

Findings of Fact with Regard to Terrence Larpenteur

1. Miles has nominated Terrence Larpenteur (Larpenteur) to be the Conservator of Helga Wanglie's Person for the limited purposes of determining her place of abode and consenting to or refusing necessary medical care for her.

2. Larpenteur is qualified to be the conservator for Helga Wanglie. He is an experienced, professional conservator. Among his eighty clients, he has two ventilator-dependent clients at this time.

3. Larpenteur is willing to accept the Court's order appointing him as Conservator in this case.

4. Larpenteur has deliberately, and appropriately, avoided learning about the particulars of this case and is, in every sense, a stranger to Helga Wanglie, her family, her medical situation and her physicians.

Findings of Fact with Regard to Oliver Wanglie

1. Oliver Wanglie is the closest person to Helga Wanglie, and he knows her conscientious, religious and moral beliefs intimately.

2. Oliver Wanglie has a well-established pattern of conferring with family members in matters involving serious decisions; however, he reserves the making of the decisions to himself.

3. Oliver Wanglie is fully able to maintain a current understanding of Helga Wanglie's mental and physical needs.

4. Oliver Wanglie is dedicated to promoting his wife's welfare. He has consistently followed the recommendations of her treating physicians with regard to her general medical care, the place where she should receive care and treatment, and the decision not to resuscitate her from future cardiopulmonary arrests. He carefully considers the quality of medical care Helga Wanglie will receive in the various places that are available to her, and he has appropriate concerns about the availability of third-party payment for her care in different settings.

5. Oliver Wanglie's children are in agreement that he should be the person to make decisions for their mother's medical care.

Other Findings of Fact

1. The stipulation of the parties filed May 14, 1991, is adopted by the Court and by this reference is included among these Findings of Fact. A copy of the Stipulation is attached to this order as Exhibit A.

2. The proposed Conservatee has property which will be dissipated without proper management.

3. The attached Memorandum is incorporated herein by this reference.

Conclusions of Law

1. Helga Wanglie is an incapacitated person as defined by Minn. Stat. 525.54, Subd. 2 and Subd. 3.

2. No protective arrangement or other transaction as described in Minn. Stat. 525.54, Subd. 7, nor other alternative to guardianship would provide adequate protection for Helga Wanglie.

3. Helga Wanglie requires the continuing protection of a guardian of her person and estate, which guardian would have all the powers described in Minn. Stat. 525.56, Subd. 3 and 4.

4. It is in Helga Wanglie's best interest that Oliver Wanglie, her husband, be appointed as the guardian of her person and estate.

5. Oliver Wanglie is the most suitable and best qualified person among those nominees who are now available.

Order

1. The amended petition of Oliver Wanglie filed May 2, 1991, is granted.

2. The amended petition of Steven H. Miles, M.D., filed May 14, 1991, is denied.

3. Oliver Wanglie be and hereby is appointed Guardian of the Person and Estate of Helga Wanglie, and possesses all the powers enumerated in Minn. Stat. 525.56, Subds. 3 and 4.

4. Letters of Guardianship shall issue to Oliver Wanglie upon the filing of his oath, acceptance of trust, and bond in the amount of five thousand dollars.

5. The Guardian shall give notice as provided in Minn. Stat. 525.56, Subd. 3(3), before any sale or disposition of the Ward's clothing, furniture, vehicles or other personal effects.

6. Any Finding of Fact entered herein which may be construed in whole or in part as a Conclusion of Law shall be so deemed and treated

as if set forth as a Conclusion of Law herein, and any Conclusion of Law entered herein which may be construed in whole or in part as a Finding of Fact shall be so deemed and treated as if set forth as a Finding of Fact herein.

BY THE COURT:

Patricia L. Belois
Judge of District Court
Probate Court Division

Dated:

State of Minnesota

Fourth Judicial District

District Court

County of Hennepin

Probate Court Division

In Re: Conservatorship of
Helga M. Wanglie,
Proposed Conservatee

File No. PX-91-283

Stipulation
of Facts

WHEREAS, counsel for all parties deem it to be in the interest of judicial economy to simplify and agree upon certain medical facts in this case; and

WHEREAS, Mrs. Wanglie's medical condition has been thoroughly documented since May 31, 1990, at Hennepin County Medical Center;

NOW, THEREFORE, it is hereby agreed and stipulated as follows:

1. Helga Wanglie is eighty-six years old, having been born on October 20, 1904;
2. In December, 1989, Mrs. Wanglie sustained a hip fracture, causing her to be hospitalized at North Memorial Hospital and subsequently placed at a nursing home;
3. On January 1, 1990, while being transferred from a nursing home to Hennepin County Medical Center (HCMC) by ambulance, she suffered an acute respiratory arrest;
4. Following the respiratory arrest, she was placed on a respirator at HCMC, and over time it was determined that she was ventilator dependent;
5. On May 7, 1990, Mrs. Wanglie was transferred to Bethesda Lutheran Hospital in St. Paul, Minnesota;
6. On May 23, 1990, Mrs. Wanglie suffered a cardiorespiratory arrest and was transferred to St. Joseph's Hospital in St. Paul after being resuscitated;
7. On May 31, 1990, Mrs. Wanglie was transferred to HCMC, where she has remained until the present time;
8. As a result of the cardiorespiratory arrest on May 23, 1990, Mrs. Wanglie suffered severe anoxic encephalopathy and has not regained consciousness since that time;
9. Since readmission to HCMC on May 31, 1990, Mrs. Wanglie has been respirator dependent (via tracheotomy tube); has been given nourishment only by intubation; has been on a Kinn-Air bed, which shifts her position and weight periodically because she cannot move

herself, in order to prevent decubitus ulcers; and has received repeated courses of antibiotics for recurrent lung infections;

10. Mrs. Wanglie has the following medical conditions:

- a. Aortic insufficiency murmur;
- b. Congestive heart failure;
- c. Chronic, recurrent pneumonias secondary to underlying lung disease, unconsciousness, and recumbency;
- d. Bilateral atelectasis and calcified lung disease;
- e. Chronic respiratory insufficiency with dependence on mechanical ventilation, which her physicians have concluded is irreversible;
- f. Persistent vegetative state with no change in one year, i.e., unconsciousness since her cardiorespiratory arrest on May 23, 1990, which her physicians have concluded is irreversible.

11. Mrs. Wanglie is incapacitated within the meaning of Minn. Stat. § 525.54, subds. 1 and 2 (1990).

WILLIAM L. H. LUBOV (64762)
Attorney for Helga Wanglie
2645 Park Avenue
Minneapolis, MN 55404
Telephone: (612) 870-7400

Dated: 5/13/91

BARRY WILLIAM MCKEE (70877)
Attorney for Oliver Wanglie
324 South Main Street, Suite 220
Stillwater, MN 55082
Telephone: (612) 430-1717

Dated: 5/13/91

MICHAEL O. FREEMAN
Hennepin County Attorney
By: MICHAEL B. MILLER (73349)
Sr. Assistant County Attorney
Attorneys for Petitioner
2000A Government Center
Minneapolis, MN 55487
Telephone: (612) 348-5488

Dated: 5/13/91

Memorandum

The Court is asked whether it is in the best interest of an elderly woman who is comatose, gravely ill, and ventilator-dependent to have decisions about her medical care made by her husband of fifty-three years or by a stranger.

Minnesota guardianship law requires the guardian to be the individual whose appointment is in the best interest of the incapacitated person. Minn. Stat. Sec. 525.551, Subd. 5 (1990). Further, Minn. Stat. Sec. 525.539, Subd. 7 (1990), instructs that: "Kinship is not a conclusive factor in determining the best interests of the Ward . . . but should be considered to the extent that it is relevant to the other factors contained in this subdivision." Minn. Stat. Sec. 525.529, Subd. 7 (1990). The parties acknowledge that a consideration of these factors often results in the appointment of a family member, unless the relative is unable to perform the duties of the office.

Petitioner Miles does not contest that Oliver Wanglie is a suitable person to be the guardian of Helga Wanglie's estate. Similarly, Miles does not dispute that Oliver Wanglie is qualified to be guardian with regard to providing food and clothing, fulfilling her social and emotional requirements, and arranging training, education and rehabilitation. Miles believes that Oliver Wanglie is not competent to be Helga Wanglie's conservator with regard to making decisions about her shelter, medical care, and religious requirements. Oliver Wanglie disagrees.

Except for unconvincing testimony from some physicians and health care providers at the Hennepin County Medical Center, there is no evidence that Oliver Wanglie is unable to perform the duties and responsibilities of a guardian. The evidence overwhelmingly supports the conclusion that Oliver Wanglie can understand the medical issues involving his wife.

In view of the Ward's comatose condition and the positions of the parties, the language of Minn. Stat. Sec. 525.539, Subd. 7 (1990), pertinent to this case reads: "'Best interests of the ward . . .' means all relevant factors to be considered or evaluated by the Court in nominating a guardian, . . . including but not limited to: (3) the interest and commitment of the proposed guardian or conservator in promoting the welfare of the ward . . . and the proposed guardian's . . . ability to maintain a current understanding of the ward's . . . physical and mental status and needs. In the case of the ward . . . , welfare includes: (i) . . . shelter, and appropriate medical care . . . (ii) religious . . . requirements . . ."

Oliver Wanglie has shown himself to be dedicated to his wife's proper medical care. He visits her regularly, although the frequency is in dispute. He expresses the belief that the nurses caring for his wife are

skilled professionals and compassionate people. Except with regard to the issue of removing the ventilator, he has thoughtfully agreed with the treating physicians about every major decision in his wife's care. He is in the best position to investigate and act upon Helga Wanglie's conscientious, religious and moral beliefs and he has indicated that he will do so. Minn. Stat. Sec. 525.56, Subd. 3 (4)(a) (1990).

No Court order to continue or stop any medical treatment for Helga Wanglie has been made or requested at this time. Whether such a request will be made, or such an order is proper, or this Court would make such an order, and whether Oliver Wanglie would execute such an order are speculative matters not now before the Court.

Oliver Wanglie believes that he is the best person to be the guardian for his wife. Their children agree with him. The evidence clearly and convincingly supports their position.

