

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ATHENS COUNTY

In the Matter of the Guardianship of Lydia Baker : Case No. 23CA13
: :
: :
: : DECISION AND JUDGMENT
: : ENTRY
: : **RELEASED: 06/11/2024**

APPEARANCES:

Samuel H. Shamansky, Samuel H. Shamansky Co., L.P.A., Columbus, Ohio, attorney for appellants.

Kenneth E. Ryan, Ryan Law Office Co., L.P.A., Athens, Ohio, guardian of the person and estate of Lydia Baker, appellee.

Wilkin, J.

{¶1} The appellants, Marlin and Margaret Baker (hereinafter referred to respectively as Marlin and Margaret and collectively as the Bakers), appeal the decision of the Athens County Court of Common Pleas, Probate Division, appointing appellee, Kenneth E. Ryan (Kenneth), as guardian of the person and estate of their daughter, Lydia Baker. On appeal, Marlin and Margaret allege that the probate court abused its discretion when it denied their application to serve as guardians for Lydia, and in favor of a third party. After reviewing the parties' arguments, the record, and the applicable law, we overrule Marlin and Margaret's sole assignment of error and affirm the probate court's judgment appointing Kenneth as the guardian of the person and estate of Lydia Baker.

FACTS AND PROCEDURAL BACKGROUND

{¶2} On December 2, 2022, Marlin and Margaret, filed an application to be appointed as co-guardians for both the person and estate of their daughter, Lydia Baker. The application alleged that Lydia was a 26-year-old adult who suffered “from schizoaffective [disorder], bipolar type.” Along with their application, the Bakers filed a statement of expert evaluation completed by Dr. Mary Hanessian. Dr. Hanessian is a licensed physician and the Director of Psychiatry at Hopewell Health Centers in Athens, Ohio. Lydia has been a patient of Dr. Hanessian since September 2015. Dr. Hanessian stated in her report that “Lydia’s mental illness is severe [and] persistent. Her ability to make informed choices about anything, including treatment is significantly impaired.” She further opined that Lydia is not capable of caring for herself or making decisions concerning medical treatments, living arrangements, and diet.

{¶3} The probate court appointed Debora K. Gibson as the court investigator to “investigate the circumstances of the alleged incompetent[.]” Deborah filed her first report on January 20, 2023. The report indicated that Lydia was residing with her parents. By the time Lydia had reached the age of 17, she had attempted suicide three times. Lydia was hospitalized in 2015 and at that time she was prescribed medication and began seeing Dr. Hanessian. Deborah also reported that Lydia heard voices as she was “constantly communicating with them” while Deborah was visiting Lydia. Additionally, during Deborah’s visit with Lydia, Lydia was not sure of her age and she had not left her home in the last year. Margaret told Deborah that Lydia has not had a case

manager in the last two years. Deborah's initial report recommended a guardianship of the person only. She indicated that a guardianship of the estate was not necessary because "Mr. & Mrs. Baker have a system that works well for Lydia."

{¶4} However, new information became available to Deborah from the Athens County Sheriff's Office that revealed a troubling history for Lydia as a minor, which caused Deborah to update her report. Deborah documented that in July of 1997, Katie Baker (Lydia's older sister) reported that both she and her sister, Lydia, were molested by their father, Marlin. When the sheriff's office attempted to follow up with Katie, she refused to speak with them; thus, the case was closed.

{¶5} Deborah further discovered that "[i]n March of 2009, it was reported to [Athens County Children Services] that Mr. Baker was using and supplying Lydia then 12 years old with marijuana every day." Additionally, "[i]n March of 2013, Lydia attempted suicide by discharging a shot gun in her room." The next day Lydia's parents took her to Tri County Mental Health and Counseling where they went through a pre-screening for admission into Bethesda. However, when Lydia left Tri County to pack a bag for Bethesda, she failed to show-up at Bethesda and Tri County attempted to contact the family to no avail.

{¶6} Deborah's report continued with additional troubling family history. "In July of 2013, Lydia was referred to Genesis [Healthcare Systems] but, was a no-show. Her parents told [Athens County Children Services] they decided she didn't need to go, and that she was ok." In December 2013, Athens County

Children Services (ACCS) received information that Margaret was supplying Lydia with K2 (marijuana) and pills. In February 2014, Hopewell Health Center sent Lydia's parents a letter saying they would no longer provide psychiatric care because of her non-compliance. In October 2018, "a mandated reporter with Health Recovery Services reported that a client advised that her disabled sister was being sexually molested and abused by their father [Marlin Baker]." Lydia denied this behavior. In January 2022, Livia McCaffrey, Lydia's sister, believed her two-year-old daughter was molested by her father, Marlin, and this case was still open.

{¶7} Based upon Deborah's updated report, the probate court upon its own motion appointed attorney, Sierra Meek, as the guardian ad litem (GAL) to represent Lydia. Sierra filed an interim report on May 4, 2023. Sierra reported that Margaret had pled guilty to disorderly conduct in July 2017. In addition to the findings made by Deborah, Sierra documented more findings by the ACCS and police. In July 2013, it was reported to ACCS that Lydia had attempted suicide with an overdose of Klonopin. "Lydia had a long history of drug use and has prostituted for drugs. No further action was taken." In December 2013, Lydia had attempted suicide by jumping off a bridge. She damaged her back and surgery was required. The report further indicated that Lydia informed ACCS that prior to this suicide attempt, "Margaret had been supplying her with pills and taking the pills herself (opiates)." No further action was taken as a result of this report.

{¶8} Sierra met with Lydia on April 18, 2023, at Bakers' home. The home smelled of marijuana and cigarette smoke. Lydia was not wearing shoes and her feet were "so dirty that they appeared black/purple." Lydia was able to identify herself and her family members to Sierra. She was not, however, able to identify her location, she thought she was in a camper. She also inaccurately thought her father (Marlin) had died and that before he died he was a "lupicorn," which Lydia described as a clown.

{¶9} During Sierra's interview with Marlin and Margaret, she described them as "personable but cautious[.]" They advised Sierra they were moving to a gated community in Hocking County, Ohio, because it was safer for Lydia. They went over Lydia's medical history. When Sierra questioned them about their ACCS involvement, Margaret stated that her son, Marlin Baker, Jr., and her daughter, Livia, had been involved with ACCS, but not Marlin or her. When Sierra asked specifically about the reports to ACCS regarding Lydia's suicide attempts, "Margaret became defensive and indicated that Lydia had been treated for that and they 'always made sure she went to her appointments.' Neither Margaret nor Marlin disclosed any other involvement with children services during this interview."

{¶10} Ultimately Sierra concluded that the Athens County legal system "has failed to protect Lydia as a vulnerable child * * * through her years as a vulnerable, disabled adult." Sierra's conclusions were based on reports from victims showing that Marlin "had been accused of supplying drugs to his minor daughters and of sexually abusing five (5) female family-members (3 daughters,

2 granddaughters)” and “nobody intervened.” “Margaret was also accused of supplying drugs to Lydia and of failing to follow through with Lydia's medications and necessary treatments.” Sierra recommended that the probate court (1) declare Lydia incompetent (2) find a guardianship over the person necessary, (3) find that Marlin and Margaret are not qualified and/or appropriate guardians, (4) find and appoint an independent third party as guardian for Lydia, (5) have Lydia removed immediately from her parents care, and (6) order Lydia to receive a full physical evaluation.

{¶11} On May 5, 2023, the probate court ordered an emergency guardianship and appointed Kenneth as the guardian of the person and estate of Lydia. Three days later, both Marlin and Margaret filed handwritten requests to withdraw their applications for guardianship, and on May 12, 2023, Kenneth filed an application for appointment of guardian of Lydia’s person and estate. The probate court set the matter for a full hearing on May 31, 2023.

{¶12} On the day of the hearing for Kenneth’s application for guardianship of Lydia, both Marlin and Margaret orally renewed their applications for guardianship over their daughter.¹

{¶13} The first to testify at the guardianship hearing was Livia McAffrey. Livia is also a daughter of Marlin and Margaret and she is Lydia’s older sister. Livia believed she was asked to testify because Lydia had been removed from her parent’s home due to allegations Livia had made to ACCS and the sheriff’s office about their father. Livia informed the court that back in August of 2022,

¹ The probate court did not rule on Marlin and Margaret’s request to withdraw their co-guardianship application prior to their oral motions to renew their application for co-guardianship.

she “started using amphetamines and other drugs pretty heavily[.]” She was “admitted into the psych hospital for thinking people were under her home[.]” Because of her drug abuse issues, she “somehow came to the conclusion that my father was hurting my daughters.” Livia continued, “I have now a clear mind on 153 days and know that that was not true.” Additionally, she indicated the allegations about her father harming Lydia were not true. She “regret[ed] whole heartedly saying that about my father. He was always a good dad. He took care of us. He takes care of * * * my sister, Lydia.”

{¶14} On cross-examination, Livia said her father had a medical marijuana card and he would smoke in the house. She admitted that she also smoked marijuana in the house. When asked about Lydia, Livia said it was “very difficult” to get her to treatment; “Lydia would not leave the house to go anywhere. Not even to the doctor.” Livia admitted during her testimony that Lydia attempted suicide three times in 2013, all while residing with her parents.

{¶15} Livia also recalled her younger sister, Katie, being in “many rehabs.” Livia stated that she was not aware that Katie in 2017 had reported that their dad had sexually molested her (Katie), Livia, and Lydia. Livia denied that their father ever sexually abused her sisters or her; Livia was adamant that the allegations she had made previously about her father were “not true[.]”

{¶16} The next witness to testify was Margaret. Margaret and Marlin are married and they have four children, Livia, Katie, Lydia, and Marlin the second, all of whom are over the age of 18.

{¶17} Margaret believes that Lydia has always had mental health issues. At first, all medical professionals told Margaret that Lydia's issues were behavioral "[a]nd so, they would not do much for us we would have to kind of manage on our own." Then Lydia got worse and she tried to kill herself more than once. Margaret took her to a private psychiatrist, Dr. Mary Hanessian, who diagnosed her with "schizophrenia, post-traumatic stress disorder, depression [and] anxiety[.]" Lydia was placed on different medications, which Margaret and Marlin would regulate at home. Margaret testified that it was "trial and error for the first 3 or 4 years. Then we got [Lydia] on Risperdal and that seemed to calm her, help her." Margaret testified that she and Marlin "never missed a dose of medicine" for Lydia.

{¶18} Margaret further indicated that both she and Marlin have asked "for several case managers to come out and be a part of her [Lydia's] life to help get her to be better." Margaret testified that she requested a new doctor because Dr. Hanessian was not communicating with them. Dr. Hanessian would not see Lydia via ZOOM, and Lydia would not leave the house. Further, Lydia would tell her mother that she was afraid of Dr. Hanessian because she had "threatened her in some way." Dr. Hanessian finally began ZOOM calls and telephone calls with Lydia and prescribed Abilify for Lydia. Abilify made Lydia very violent. When Margaret called the doctor about the side effects of Abilify, she would never get a callback. Margaret decided to take Lydia off the Abilify but "kept her on every other medicine they gave me[.]" Lydia did get a new caseworker, who

came to the house one time and met with Lydia, but “then all of this happened and we’ve never heard from Hopewell again.”

{¶19} Margaret testified that she has never given Lydia any illicit substances and if she finds out her children are abusing drugs in her home then she kicks them out. Further, she has never seen Marlin act inappropriately toward anybody.

{¶20} Margaret believes Lydia needs a guardian and that she and Marlin are the best choice. Margaret indicated that under Marlin and her care, Lydia “has progressed a lot. She was a lot worse. This last two or three years she’s been doing great on the Risperdal.”

{¶21} On cross-examination, Margaret admitted that in July 2018, the Ohio University Police Department (OUPD) came to her home with a search warrant. She indicated that “[t]hey searched my house because of people that lived in with me, and they did find marijuana in my house. And the people that owned the marijuana didn’t want to get fired from their job so I just took the charges and got a disorderly conduct and paid the fine.” Margaret testified that she was willing to lie to the court in order to protect her family, claiming “it was just marijuana. It wasn’t really to me anything serious.” Despite her best efforts, Margaret testified that she has not been able to prevent Lydia from accessing marijuana.

{¶22} Margaret testified that she was not aware that in 2017 one of her daughters reported to the police that she was sexually abused by Marlin. Margaret also did not recall the police coming to her home in 2018, regarding

another allegation of sexual abuse by Marlin. Margaret indicated that the police were frequently at her home and she assumed it was drug related. Margaret did recall the police report made by Livia regarding Marlin sexually abusing Livia's children because she received a letter from children services that there was no substantial evidence to submit the claim. Margaret was adamant that Marlin has never sexually abused anyone and that there was no need to take extra steps in her household to protect her children or grandchildren from him.

{¶23} Additionally, Margaret admitted that after the first time Lydia attempted to commit suicide, she was in and out of the Basset House. Basset House is a residential treatment facility provided by Health Recovery Services located in Athens, Ohio. However, after Lydia's subsequent attempt to harm herself, Margaret did not believe that placing Lydia in the Basset House by herself without her family's support would be helpful to Lydia. Margaret believed her family could handle Lydia's issues.

{¶24} Sierra Meek, the GAL appointed to Lydia, was next to testify. Sierra met with Lydia one time at the Baker residence. Lydia was barefoot and her feet were "filthy." Lydia was friendly. Although they were in a house, she thought they were currently in a camper. Lydia advised Sierra that she had a child. Lydia told Sierra that "her father was a lupicorn when he died." Sierra found that Lydia clearly "was not stable." Sierra said that the house had a strong smell of marijuana and smoke. Sierra informed Margaret and Marlin about her concerns with ACCS involvement. "Margaret was quick to deny that they had had any

involvement with [ACCS] and that Livia was the one that was involved with CPS, and that Marlin, Jr., was the one involved with CPS.”

{¶25} Sierra agreed on cross-examination that she met with Lydia only one time. She admitted that she did not have first-person reports regarding the sexual abuse allegations against Marlin but rather all reports were from ACCS investigations that were brief and concluded within 30 days.

{¶26} Sierra indicated that she did not think it would be in Lydia’s best interest for either Margaret or Marlin to be appointed guardians for the following reasons: (1) The Bakers’ home smelled of marijuana and Lydia had previously had problems with marijuana usage, (2) Lydia’s pinpoint pupils caused Sierra concern that Lydia was either not receiving her medications properly or she was using other drugs, (3) ACCS report wherein Lydia alleged that her mother was giving her Oxycodone, and (4) ACCS reports from three of the Bakers’ daughters and two of the Bakers’ granddaughters alleging Marlin sexually abused them.

{¶27} Kenneth testified that he is a licensed attorney in the State of Ohio. The first time he became a guardian was in 2008 for a family member. Thereafter, he has been appointed as a guardian for both probate and juvenile courts a “fair” amount of time. The probate court appointed Kenneth as the emergency guardian for Lydia. Kenneth first met with Lydia approximately three days after she was removed from her home and he has spoken with her over the telephone two to three times. Kenneth stated that Lydia seemed “genuinely at ease when I was with her. She seemed genuinely happy.” Kenneth testified that

he understands this matter is “really difficult” for the family and he will “do everything I can to make sure that she’s healthy.”

{¶28} At the close of the hearing, the probate court found by clear and convincing evidence that a guardianship for Lydia was needed. The court further denied Marlin and Margaret’s applications for guardianship finding that they were not the most suitable people to be guardians for Lydia. Finally, the court found by clear and convincing evidence that attorney, Kenneth E. Ryan, was the appropriate applicant and appointed him as the guardian of the person and estate of Lydia.

{¶29} It is from this judgment that Marlin and Margaret appeal.

ASSIGNMENT OF ERROR

THE PROBATE COURT ABUSED ITS DISCRETION IN DENYING THE APPLICATION OF MARLIN AND MARGARET BAKER TO BE GUARDIANS OF PERSON AND ESTATE OF LYDIA BAKER AND IN GRANTING THE APPLICATION OF KENNETH E. RYAN.

{¶30} In their sole assignment of error, Marlin and Margaret argue that the probate court abused its discretion when it granted Kenneth’s application for guardianship of the person and estate of their daughter, Lydia, instead of granting their application for co-guardianship.

{¶31} Marlin and Margaret argue that Lydia made significant progress while in their care between 2013 and 2023. They claim this progress was due to their “unequaled access to Lydia” and their ability “to observe and track her progress, or lack thereof, at all times, and respond accordingly by seeking new courses of treatment if necessary.” They further assert that they have a “proven

record of promoting positive growth in their daughter * * * [and this] made them the only reasonable choice to serve as guardians of Lydia Baker.”

{¶32} Marlin and Margaret further claim that the probate court erroneously relied upon the report and testimony of Sierra. Sierra only met with Lydia one time before making her recommendation. Sierra further predicated her recommendation on unsubstantiated reports by ACCS.

{¶33} Marlin and Margaret maintain that Lydia has made progress while in their care and they both expressed concern that this “progress could potentially be undone by a drastic change in circumstances in which they would be rendered incapable of using their learned experience to closely monitor and care for her.” Thus, Marlin and Margaret argue that the probate court abused its discretion by appointing a third independent party as Lydia’s guardian as opposed to her parents who have persistently monitored and cared for Lydia her entire life.

{¶34} Kenneth responds by stating that the “record is replete with competent credible evidence to support the probate court’s decision.” Kenneth relies upon Sierra’s testimony that reports of Marlin’s sexual abuse “did not just occur during times of drug abuse, but also during periods when the reporter was in treatment.” Sierra also found that the Bakers “failed to follow through with medications, appointments and treatment.” Testimony further confirmed that Lydia had attempted suicide three times while residing with Marlin and Margaret. Margaret testified that “she was aware that Lydia self-medicating with illicit substances for years while in her care.” Margaret further confirmed that Lydia

had a total of seven mental health appointments from 2021 through 2023, “despite her serious mental health issues.” Additionally, Margaret testified that she is willing to lie to the court to protect people in her home from losing their jobs.

{¶35} For all the foregoing reasons, Kenneth asserts that the trial court did not abuse its discretion in not granting Marlin and Margaret’s application for co-guardianship and in granting his application.

A. STANDARD OF REVIEW

{¶36} “It is well settled that probate courts have broad discretion when appointing guardians under R.C. 2111.02(A), and their decisions will not be reversed absent a showing of an abuse of that discretion.” *In re Guardianship of P.D.*, 4th Dist. Washington No. 08CA5, 2009-Ohio-3113, ¶ 16. “An abuse of discretion is more than an error of law or judgment; it implies that the court’s attitude was unreasonable, arbitrary, or unconscionable.” *Id.* “In addition, we will not reverse a trial court’s factual findings if they are supported by ‘some competent, credible evidence.’ [W]e are mindful that the trial court is in the best position to judge credibility of testimony because it is in the best position to observe the witness’s gestures and voice inflections.’ ” (Citations omitted, brackets sic.) *In re Guardianship of T.M.D.-D*, 4th Dist. Washington No. 20CA36, 2021-Ohio-3249, ¶ 11, quoting *Beaver v. Beaver*, 4th Dist. Pickaway No. 18CA5, 2018-Ohio-4460, ¶ 29.

B. LAW

{¶37} “R.C. 2111.02(A) provides: ‘When found necessary, the probate court on its own motion or on application by any interested party shall appoint, subject to divisions (C) and (D) of this section * * * a guardian of the person, the estate, or both, of a minor or incompetent[.]’ ” (Elipses sic.) *In re Guardianship of P.D.* at ¶ 19. In guardianship matters, the probate court is required to act in the best interest of the incompetent person. See *In re Guardianship of Smith*, 12th Dist. Butler No. CA2013-09-165, 2014-Ohio-2119, ¶ 18. “ ‘Best interests’ means the permanent welfare of the ward in his relation to society in view of all the circumstances.” *In re Briggs*, 9th Dist. Summit No. 18117, 1997 WL 416331, *3 (July 9, 1997).

{¶38} The appointment of a guardian must be established by clear and convincing evidence. R.C. 2111.02(C)(3).

Clear and convincing evidence is that measure or degree of proof which is more than a mere ‘preponderance of the evidence, but not to the extent of such certainty as is required ‘beyond a reasonable doubt’ in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.

In re Guardianship of T.M.D. -D at ¶ 11, quoting *Cross v. Ledford*, 161 Ohio St. 469, 120 N.E.2d 118 (1954).

{¶39} Additionally,

“Ohio does not have a statutory preference for the appointment of guardians. Courts generally select the next of kin or someone acceptable to the next of kin on the theory that they will be the persons most concerned with the ward's welfare. The Revised Code, however, does not require them to do so, and the probate court may appoint a *stranger* as guardian if the appointment is in the ward's best interests[.]” (Emphasis sic.)

In Re Guardianship of P.D. at ¶ 23, quoting 53 O Jur.3d, Guardian and Ward, § 30 Priority of Relatives; effect of parent's religion.

C. Analysis

{¶40} We begin our analysis by noting that none of the parties dispute the fact that Lydia is incompetent and a guardianship is necessary and in her best interest.

{¶41} Next, we find that the probate court's decision to appoint Kenneth as opposed to Marlin and Margaret, as Lydia's guardian is supported by competent, credible evidence and is in Lydia's best interest.

{¶42} Despite the fact that Marlin and Margaret love and care for Lydia, evidence clearly shows that the Baker household exhibits patterns of instability and harmful behaviors that affect their suitability to properly care for Lydia. Testimony revealed that at least three of the Baker children (Livia, Katie, and Lydia) have all had drug abuse issues. Livia testified that she used marijuana in her parent's home. She would also see her father, who had a medical marijuana card, smoke marijuana in his home. Lydia had been diagnosed with cannabis use disorder, but Margaret testified that despite her best efforts she could not prevent Lydia from accessing marijuana, which is not surprising since Margaret testified that did not think marijuana was anything serious. And, according to Kenneth, Lydia tested positive for THC when she was removed from the Baker household. Lastly, in 2018, Margaret admitted that the OUPD searched their entire home and found marijuana "all over." As a result of the search of the Baker home in 2018, Margaret pled guilty to disorderly conduct; however,

Margaret admitted under oath that she lied to the court to protect her family, as the marijuana belonged to someone else.

{¶43} Additionally, although not substantiated, the evidence established a pattern of sexual abuse allegations against Marlin. The guardian ad litem report revealed that Katie Baker in 2017, while in a rehabilitation setting, reported to the sheriff's office that her father "molested her, her sisters and continues to molest her younger sister, Lydia." Katie thereafter refused to cooperate and no further action was taken. In 2018, Health Recovery Services reported to the sheriff's office that a patient advised that her disabled sister was being molested by her father repeatedly but Lydia denied this allegation and no further action was taken. Lastly, in 2022, Livia reported to the sheriff's office that her father had molested her and her children. Livia recanted this allegation in her testimony stating that she was under the influence of drugs when she made these accusations and they were not true.

{¶44} Further, evidence revealed an unfortunate pattern of suicide attempts by Lydia in 2013, while in the care of her parents. Thereafter, Lydia was diagnosed with schizophrenia, post-traumatic stress disorder, depression, and anxiety and Lydia was then placed on medications. Since then, according to Margaret, Lydia has been progressing and doing a lot better. This is contradictory to Sierra's observations and interactions with Lydia. During Sierra's visit with Lydia, she immediately noticed Lydia's feet were extremely filthy. Sierra further had concerns for Lydia's mental health in which Lydia thought her father

was dead and died as a lupicorn. Another major concern was that Lydia had not left the house in over a year.

{¶45} Moreover, contrary to Margaret's testimony, Dr. Hanessian's evaluation filed December 2022 determined that Lydia's mental illness is severe and persistent. Further, Kenneth suggests that Dr. Hanessian is describing Lydia as someone who should be hospitalized, yet Margaret admitted that Lydia only saw a mental health professional three times in 2021, one time in 2022, and three times in 2023. Margaret also admitted that on more than one occasion she failed to follow through with recommended treatment for Lydia; She failed to take her to Bethesda, and she failed to not continue treatment for Lydia at the Basset House. Finally, Margaret took it upon herself to discontinue the use of medication recommended by Dr. Hanessian.

{¶46} Based upon Sierra's report, the probate court appointed Kenneth to be the emergency guardian. Evidence showed that Kenneth had Lydia removed from the Baker household and had her placed in a facility where she is receiving treatment. Kenneth met with Lydia one time and he has spoken with her a few times on the telephone. He testified that Lydia seemed genuinely happy and at ease with the situation.

{¶47} Based on the foregoing reasons, we find that the trial court did not abuse its discretion in finding by clear and convincing evidence that it was in Lydia's best interest to appoint Kenneth as her guardian, as opposed to Marlin and Margaret. Although some of the allegations set forth above have not been substantiated, there appears to be a lot of chaos and dysfunctionality in the

Baker home. Marlin and Margret have tried, but, unfortunately, the evidence shows that Lydia continues to suffer. Although difficult for the family, it is time to try something new for Lydia. Thus, we find the trial court did not abuse its discretion in appointing Kenneth as the guardian for Lydia.

D. Conclusion

{¶48} Accordingly, we overrule Marlin and Margaret's sole assignment of error and affirm the judgment of the probate court.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT BE AFFIRMED and that appellants shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Athens County Common Pleas Court, Probate Division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Smith, P.J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.