

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY

IN THE MATTER OF THE
GUARDIANSHIP OF BRITTANY JUDY

:
: C.A. No. 2026-CA-19
:
: Trial Court Case No. 20142118
:
: (Appeal from Common Pleas Court-
: Probate Division)
:
: **FINAL JUDGMENT ENTRY &**
: **OPINION**

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Pursuant to the opinion of this court rendered on September 11, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



CHRISTOPHER B. EPLEY, JUDGE

TUCKER, J., and HUFFMAN, J., concur.

OPINION
CLARK C.A. No. 2026-CA-19

S. TODD BRECOUNT, Attorney for Appellant
DEREK L. GRAHAM, Attorney for Appellee

EPLEY, J.

{¶ 1} Kimberly Judy appeals from a judgment of the Clark County Common Pleas Court, Probate Division, which denied the application to appoint her as guardian of the person of her legally incompetent adult daughter, Brittany N. Judy. For the reasons that follow, we affirm the trial court's judgment.

I. Procedural History and Facts

{¶ 2} Brittany Judy was adjudicated incompetent on December 30, 2014. Brittany is 30 years old, has cerebral palsy, and suffers from seizure disorders. She requires 24-hour care. A guardianship of the person was established when Brittany turned 18. Kimberly Judy, Brittany's mother, was appointed as her guardian.

{¶ 3} In 2018, Kimberly was removed as guardian after health issues involving Kimberly and Brittany. Brittany was taken by squad from Kimberly's home with multiple organ failure and spent three months in the hospital. In January 2019, attorney Jeannette Chu was appointed as guardian. A special needs trust in Brittany's name was previously established and is administered by attorney Alan Collins.

{¶ 4} On August 21, 2025, Kimberly filed a motion for an order requesting that Chu be removed as guardian and that she (Kimberly) be named guardian of Brittany. On August 25, 2025, Chu moved to resign as guardian on account of biological father's aggressive behavior. Biological father, Steve Ferrieri, lives with Kimberly. On September 15,

2025, Advocacy and Protective Services, Inc. (“APSI”), filed a successor application for appointment of guardian of alleged incompetent.

{¶ 5} A hearing on the competing applications was held on January 30, 2026. Kimberly testified in support of her application. She stated that she was a registered nurse, but her license is inactive and she has not worked since 2000. She lives in a three-bedroom home with Brittany’s father, Steve, and they have a renter in the master bedroom. She visits with Brittany at the nursing home most days during the week—except Wednesdays—for a total of 18 hours per week (in contradistinction, the court investigator’s report indicated that Kimberly visited only five times in September and shortened her visits in October). Kimberly said she completed guardianship classes seven years ago. Brittany’s father has a court order that allows him one video call per week with Brittany. If Kimberly were named guardian, she would allow more contact between Brittany and Steve, because it is “important to both of them.” Kimberly’s goal is to move Brittany back into her home. If Brittany moved back to Kimberly’s home, the renter would move after a 30-day notice. Brittany is in a wheelchair and would require a Hoyer lift, which Kimberly does not have.

{¶ 6} Kimberly testified that the guardianship was removed from her after Brittany had a grand mal seizure and a stroke in 2018. Brittany spent two months in a coma. During that time, Kimberly was also hospitalized due to her mental health and bipolar disorder. Kimberly stated that she has not been hospitalized in four years and takes her medication regularly; the medication helps with her depression and a prior case of frozen neck syndrome. Kimberly told the court that Brittany wants to come home. Kimberly does not feel pressure from Steve to pursue guardianship of Brittany. Kimberly’s source of income is Social Security disability, and Steve’s income is Social Security retirement. Kimberly owns the home she lives in, which was bought by Brittany’s trust.

{¶ 7} At the end of the hearing there was a stipulation to APSI's general suitability as a guardian.

{¶ 8} Included in the record is the Court Investigator's Report, dated December 5, 2025. The investigator visited Kimberly and Steve's home, accompanied by two deputies, in August 2025, and she served a copy of the notice of hearing upon Kimberly and Steve. She said that Steve appeared manic and was rambling about Springfield being a third-world country. Kimberly opened the door to her house, which was clean but smelled of cigarettes. The investigator stated that there was enough room for Brittany's wheelchair and there was a bathroom with a walk-in shower. Kimberly stated she would have a 24-hour aide in the home to help if Brittany returned to her care.

{¶ 9} The investigator also visited Brittany at Southbrook nursing home where she lives. When asked if she wanted Kimberly (or Steve) to be her guardian, Brittany responded with "no." Kimberly testified that Brittany can share her wishes and thoughts. Kimberly visited five times during September 2025. Staff sit with Kimberly and Brittany during the visits. The investigator concluded that Brittany really enjoys her current placement and the attention she receives there.

{¶ 10} On February 2, 2026, the court denied Kimberly's application and appointed APSI to serve as Brittany's guardian. Kimberly appeals the trial court's judgment, raising one assignment of error.

II. Assignment of Error and Analysis

{¶ 11} In her assignment of error, Kimberly claims that the trial court abused its discretion by refusing to appoint her as guardian of Brittany's person and instead appointing APSI as guardian. Kimberly contends that the trial court acted both unreasonably and arbitrarily when it denied her guardianship petition.

{¶ 12} “A guardian of the person is responsible for the care and well-being of the ward.” *In re Guardianship of Santrucek*, 2008-Ohio-4915, ¶ 2, fn.1. Under R.C. 2111.02(A), probate courts have the power to appoint a guardian of the person of an incompetent upon the application of any interested party. R.C. 2111.02(B)(1) further provides that such a guardian may be appointed “[i]f the probate court finds it to be in the best interest” of the incompetent person. The term “best interest” has been described as “the permanent welfare of the ward in his relation to society in view of all the circumstances.” *In re Briggs*, 1997 WL 416331, *3 (9th Dist. July 9, 1997).

{¶ 13} A stranger may be appointed guardian. *In re Guardianship of Cooper*, 2019-Ohio-3526 (2d Dist.). “Courts generally appoint the next of kin, those with family ties, or someone acceptable to the ward, based on the theory that these people will be most concerned with the ward’s welfare. However, courts have great discretion in this matter and are not required to appoint such persons. Instead, a stranger may be appointed as guardian if it is in the incompetent’s best interests.” *Id.* at ¶ 2; *see also In re Guardianship of Terzano*, 1990 WL 199103, *2 (11th Dist. Dec. 7, 1990). Ohio has no statutory preferences as to the appointment of guardians. *Id.*

{¶ 14} Probate courts have broad discretion in appointing guardians, and we will not reverse their decisions unless there is an abuse of discretion. *In re Money*, 2012-Ohio-4450, ¶ 10 (2d Dist.).

{¶ 15} When it denied Kimberly’s petition for guardianship of Brittany, the trial court made several findings. The prior guardian, attorney Chu, resigned before the hearing, citing years of aggression from Brittany’s father, Steve, who lives with Kimberly. The court noted police involvement and a no-trespass order against Steve vis-à-vis the prior guardian. At the time of the hearing, Brittany was a 29-year-old female requiring 24-hour, 7-day-per-week

care. Although Kimberly was a registered nurse, her license had lapsed 25 years ago. The court had earlier denied Steve's motion to be named co-guardian with Kimberly, because of a prior felony abduction conviction. The court found that Brittany was well cared for, happy, and content in her current living arrangement. She was friends with some of the other younger residents at the nursing facility. The court concluded that, despite Kimberly's genuine desire to move Brittany into her residence, it was not in Brittany's best interest. Rather, an independent guardian, APSI, was more suitable and in the best interest of Brittany.

{¶ 16} The trial court did not abuse its discretion by appointing APSI as guardian of Brittany's person. Instead, ample evidence supported the conclusion that the appointment was in Brittany's best interest. The denial of Kimberly's petition was not unreasonable or arbitrary. Accordingly, Kimberly's assignment of error is overruled.

III. Conclusion

{¶ 17} Kimberly's assignment of error having been overruled, the judgment of the trial court is affirmed.

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TUCKER, J., and HUFFMAN, J., concur.