

Adult Guardianship Advocacy Project
and
Minor Guardianship Advocacy Program

Year-End Report 2023



Executive Summary

Imagine having someone appointed to run your life without you having any say in the matter? This was the reality in Clark County before the establishment of Legal Aid Center of Southern Nevada's Guardianship Advocacy Program. The vision behind Legal Aid Center's legal representation in adult guardianship actions is:

- To ensure that the least restrictive alternative to guardianship is explored and selected before guardianship is considered to maximize the independence and legal rights of those who would otherwise be placed under guardianship.
- To protect and represent the due process rights of seniors and individuals with disabilities who are currently saddled with an inappropriate guardian who ignores their needs, exploits them, and/or overbills them.
- To advocate the wishes of seniors and individuals with disabilities in a guardianship action when they want to remain in their home, or, when this is not possible, live in a place of their choosing where they feel safe and comfortable.
- To stop guardians from unilaterally liquidating the property, keepsakes, and heirlooms of a person under a guardianship.

Since 2019, Legal Aid Center has also been serving children in minor guardianship proceedings, providing direct representation to children outside the foster care system, but who nonetheless are in need of a legal guardian due to the death, unavailability, or unsuitability of their natural parents. Legal Aid Center attorneys protect the legal interests of children by advocating for their rights to be safe and have their basic needs met.

Representation

Adult Guardianship Advocacy Program 2023	
New cases accepted 2023	820
Total cases worked on by attorneys (includes new and previous years cases)	3,144
Total annual clients served	3,153

Minor Guardianship Advocacy Program 2023	
New cases accepted 2023	516
Total cases worked on by attorneys (includes new and previous years cases)	982
Total annual clients served	1,423

Accomplishments

The right to counsel in guardianship cases has significantly changed the landscape of guardianship in the State of Nevada. Many wrongful adult guardianship actions were prevented due to counsel involvement, and many existing adult guardianships were dissolved because of independent legal counsel. In 2023 alone, 29% of adult guardianship petitions were dismissed as a result of legal intervention. In minor guardianship cases, 42% of the petitions for guardianship were granted for children in need of guardianship. The minor guardianship team also assisted in removing 17% of guardians for good cause, including for allegations of abuse and neglect. When there is independent legal counsel appointed to a case who is not paid from the estate and thus has no financial interest in dragging out a case under extensive court proceedings, there is a change in the dynamic of these actions. The result is a client-centered approach that prioritizes the interests of the protected person.

Adult Guardianship

The Adult Guardianship Advocacy Project continued to be busy in 2023. Our team of 14 attorneys, 4 advocates, 3 legal assistants and 2 case managers served 3,144 adults in guardianship cases over the past year. In addition to representing our clients in the district court, our attorneys also litigated matters before the Supreme Court and the Court of Appeals and one of attorneys participated in oral argument.

Many adults facing guardianship have failed to plan for their futures by making an estate plan or making their wishes/desires known to their loved ones. In an attempt to address this problem, our Project has continued to develop its Community Outreach Program in which our attorneys educate seniors in the community about how to avoid court-ordered guardianship by executing Powers of Attorney for healthcare and financial decisions. In addition, the Project continues to engage with young adults with disabilities, their families, and community partners to share information about supported decision-making agreements, powers of attorney, and other less-restrictive supports as a way to avoid unnecessary court intervention and promote self-determination for disabled young adults.

Finally, we engaged in the legislative process and identified policy changes needed to improve the lives and outcomes of our clients, as well as protect their estates from mismanagement. To that end, we proposed legislative changes to the current guardianship statutes during the 2023 legislative session Nevada Legislature. While changes were not enacted, we were able to plant the seeds of improvement and change for the next legislative session.

Minor Guardianship

Our Minor Guardianship Program entered its third year advocating the rights of minors in guardianship proceedings. Last year our 5 Minor Guardianship attorneys and 2 legal assistants served children ranging in age from 0-18 who were facing guardianship due to the unsuitability or unavailability of their parents. These children had experienced physical, emotional, verbal, and sexual abuse at the hands of their parents or had witnessed domestic partner violence or their parents struggled with substance abuse or mental health. Some of these children's' parents

struggled with housing insecurity or their parents were not available due to death, incarceration, deportation, or their whereabouts are simply unknown. The minor team served 1423 clients this year, including all stages of legal representation. In fact, the team ended the year litigating twenty-four evidentiary hearings. The team also represented clients in seven appellate matters before the Nevada Supreme Court.

Success Stories - Adults

Allison*

Allison, a 78-year old independent woman, was facing a guardianship petition in which her sister filed to be her guardian over her person and estate. However, Allison and her sister were estranged. During the course of Legal Aid Center's representation, Allison disclosed that her sister had been emotionally and physically abusive with her in the past. Allison also reported an instance where her sister took money out of her account without permission and had stolen some of her personal belongings. Needless to say, Allison did not want her sister to be her guardian.

More importantly, Allison did not want anyone to be her guardian, and it soon became clear that a guardianship was not necessary because Allison was capable of managing her own affairs. Allison, with her attorney's assistance, filed her objection to the Guardianship and set forth examples of how she had been taking care of herself with the support of those around her. The Court found good cause to deny the Petition for Guardianship.

When her attorney delivered the news to Allison, she cried out of relief and thanked her attorney for representing her and advocating for her wishes. Representing Allison was one of the more rewarding experiences for the Legal Aid Center Attorney thus far in her career.

Gabe and David*

In August, maternal grandparents filed for guardianship over 10 year old Gabe and 12 year old David. In their Petition, they asked for emergency temporary guardianship as David has severe medical issues stemming from a birth defect affecting his bladder and kidneys and requiring daily monitoring and specialized care. On August 3, 2023, these grandparents received a call from David asking to be picked up from the hospital where he and his brother had been abandoned. They quickly mobilized and picked up the children and called CPS. The children disclosed they had been living in a stolen UHaul and David had not been to the doctor for a year. CPS investigated and determined that the grandparents were demonstrating protective capacity as they were going to file for guardianship, but that left David in a dangerous position of living with a chronic and potentially deadly condition without a legal guardian. His grandparents attempted to take him to his Urologist as they observed he appeared to have a kidney or bladder infection and the Urologist indicated he needed immediate imaging of David's bladder and kidneys to check if they were growing properly and if he needed emergency treatment. The radiologist refused to see David without a temporary guardianship. Further, David requires special prescription catheters that he uses every 5 hours and the pharmacy was unable to refill his prescription without his caregivers having temporary guardianship.

Attempting to address his urgent and serious medical needs, David's grandparents filed for temporary guardianship over him and his brother and attached a doctor's note that highlighted the barriers to care David was facing without a guardianship and stressing the emergency nature of the situation. In their petition, the petitioners indicated they were unable to serve anyone with their intention to seek guardianship as they did not know their locations and, as to mom, felt that notifying her would further risk David's safety.

The court denied the requested temporary guardianship through a form minute order stating that the grandparents had not established David could not access care without a guardian and there was otherwise not good cause to grant a temporary guardianship. It further held that the petitioners had not met the service requirements.

Counsel from Legal Aid Center was appointed for both Gabe and David.

Upon reviewing the matter, counsel drafted an Emergency Petition for Writ of Mandamus asking the Supreme Court to direct the district court to grant a temporary guardianship over David, arguing that the petitioners had provided sufficient information and that David's right to live and be healthy outweighed a parent's right to notice in an emergency situation.

A few weeks after filing, the Supreme Court granted the Petition for Writ of Mandamus and issued an Order requiring the district court to issue a temporary guardianship, finding that **“the district court manifestly abused its discretion in denying the temporary guardianship for medical purposes.”** And explaining that a temporary guardianship for medical purposes is appropriate to protect a child's health, even when no parties have been served because their locations are unknown. This decision from the Supreme Court, facilitated by David and Gabe's counsel, ensured that David had the medical care he needed and deserved.

** Names changed to protect client's confidentiality*