

Matter of Joseph G.

2025 NY Slip Op 32767(U)

July 22, 2025

Surrogate's Court, Bronx County

Docket Number: File No. 192G2006

Judge: Nelida Malave-Gonzalez

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This opinion is uncorrected and not selected for official publication.

SURROGATE'S COURT, BRONX COUNTY

July 22, 2025

IN THE MATTER OF THE GUARDIANSHIP OF

JOSEPH G.

Pursuant to SCPA Article 17-A
File Nos.: 192G2006 and 192G2006/A - B

In these SCPA 17-A guardianship applications, a family friend and the respondent's niece separately petition to be appointed successor guardian of the respondent's person. The cross petitioner niece also seeks additional property authority. On the return date of citation in both proceedings, jurisdiction was complete and the respondent appeared with the petitioner friend and the petitioner's attorney, and the cross petitioner also appeared with counsel. Based upon the limited testimony presented and the issues raised by the parties, the court held a brief in camera discussion with the respondent, determined that a guardian ad litem is to be appointed to represent him and set the matters down for a hearing to be held at 2:15 p.m. on September 17, 2025.

The respondent, who is 61 years old, was determined to be intellectually disabled pursuant to a decree dated July 30, 2007, which also appointed the respondent's brother as guardian of his person and another family friend as standby guardian. The respondent's parents and the brother are deceased. The petitioner met the respondent and the brother in 2002 as the President and Executive Director of Animal Nation, a nonprofit wildlife rescue rehabilitation facility located in Westchester. Since that time, the respondent and brother enjoyed a close relationship with the petitioner and his family. At the end of April, 2025, having not heard from the brother for several days, the petitioner went to their home in the Bronx and discovered that the respondent was alone with the brother who had died and unable to take care of his own needs, including feeding himself and basic self-care. The petitioner reported the brother's death to the New York City Police Department and brought the respondent to hospitals in the Bronx and Westchester, where he was also seen by New York City Adult Protective Services. Westchester. As the respondent was also traumatized and physically compromised, the petitioner took him to his home in Westchester, where he continues to reside. The petitioner also made funeral arrangements for the brother.

In addition to providing custodial care and buying new clothing for the respondent, the petitioner takes him to a therapist to deal with the loss of his brother and life changes and accompanies him to medical appointments. The petitioner is actively investigating OPWDD certified day

programs that would be beneficial for the respondent, who wishes to attend. Accordingly, the petitioner requests to be appointed temporary guardian to enroll the respondent in OPWDD services and continue to obtain appropriate medical treatment for him.

The cross petitioning niece resides in Las Vegas, Nevada with the respondent's sister who consents to her application. The cross petitioner petitioned for letters of administration c.t.a. in the brother's estate as designee of the ward's nephew who is the nominated executor and sole beneficiary of a will dated September 2, 1998 and was appointed temporary administrator.

The limited testimony adduced revealed that there was a falling out between the recently deceased brother with their sister for many years. Consequently, the sister and her daughter, the cross petitioner, had little, if any contact with the respondent until after the brother's death. The cross petitioner also stated on the record that, should she be appointed as guardian, she will take the respondent to live with her family in Las Vegas. She noted that the estrangement with the brother and unfamiliarity with the respondent was not her fault and hopes that she and the sister will enjoy a close family relationship with him. After a brief in camera discussion was held with the respondent, the court disclosed to counsel and the parties that the respondent verbalized that he enjoyed living at the petitioner's home, "felt safe" and wanted to remain there.

On this state of the record, and noting that the respondent

endured recent trauma arising from the circumstances of the brother's death, he is living with the petitioner with whom he and the brother had a long time friendship, he continues with his volunteer activities at Animal Haven and appears well taken care of, the court finds that it is in the respondent's best interest that the present status quo should be maintained at this time and that the petitioner is qualified to serve as temporary successor guardian. Although the court previously opined that it might be disruptive to enroll the respondent in a daily program should the niece be appointed as successor guardian, upon reconsideration, the court also finds that the temporary successor guardian should have full decision making authority including investigating and enrolling the respondent in a suitable OPWDD program.

Accordingly, the court has signed orders appointing the petitioner, Patrick M. temporary successor guardian of the person of the respondent and revoking the appointments of the respondent's deceased brother, Vincent G., as guardian of his person and the standby guardian, Catherine D., who has resigned. Suzanne M. Carter, Esq. is appointed guardian ad litem to represent the respondent herein and in the probate proceeding in the brother's estate.. Counsels are to serve and file a list of the names and addresses and contact information for the witnesses who will testify at the hearing and their relationship to the respondent on or before September 10, 2025. The guardian ad litem shall also serve and file a preliminary report prior to the hearing.

The Chief Clerk shall mail copies of this decision and the order

to the attorneys for the petitioner and cross petitioner and the guardian ad litem.

Proceed accordingly.


HON. NELIDA MALAVE-GONZALEZ
SURROGATE