

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

In the Matter of the Guardianship of Minh Duy Tran

LINH THI MINH TRAN
PETITIONER,

VS.

KATHY HUNG PHAM and MINH DUY TRAN
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO

IN THE SUPREME COURT OF THE STATE OF OREGON

PETITION FOR WRIT OF CERTIORARI

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09/04/2018

IN THE MATTER OF GUARDIANSHIP OF MINH DUY TRAN. Petition For A Writ of Certiorari. Petitioner Linh
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Original

QUESTION(S) PRESENTED

1. Did the trial court err in ruling General Judgment of Dismissal the Guardianship Petition filed by Linh Thi Minh Tran with prejudice?
2. Did the trial court err in ruling that as a matter of law when it said that appellant Linh Thi Minh Tran has failed to establish by clear and convincing evidence that any guardianship is necessary as a means of providing continuing care and supervision of the Respondent Minh Duy Tran?
3. Did the trial court err in ruling that as a matter of law appellant Linh Thi Minh Tran is not a suitable person to be appointed guardian of the Respondent Minh Duy Tran?
4. Did the trial court err in ruling that as matter of law when it supported respondent Kathy Hung Pham who is mental health severe ill continue makes health care decisions for respondent Minh Duy Tran?
5. Is Petitioner Linh Thi Minh Tran appropriate person to be guardian for Respondent Minh Duy Tran?
6. Did the trial court err in ruling that as matter of law respondent Minh Duy Tran shall pay costs and attorney fees for his attorney appointed by court, Frederic Cann, OSB 781604 when respondent Minh Duy Tran does not have any income?

7. Did the trial court err in ruling that as matter of law when it granted supplemental judgment for attorney fees is \$7,564.59 in favor of Frederic Cann to against petitioner Linh Thi Minh Tran?
8. Is the Court of Appeals' decision affirmed without opinion with the trial court's decision appears to be error results in a serious or irreversible injustice or in a distortion or misapplication of a legal principle?
9. Is this case or questions presented on review have importance and must require decision by the Supreme Court of The United States?

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APENDIX B: Order Denying Petition for Review in the Supreme Court of State of Oregon. In the Matter of the Guardianship of Minh Duy Tran, Case Name: Linh Thi Minh Tran, Petitioner vs. Kathy Hung Pham and Minh Duy Tran, Respondents. Case Number: S065603 was issued on 03/22/2018 by Thomas A. Balmer, Chief Justice Supreme Court.

APENDIX C: Appellate Judgment and Supplemental Judgment granted in favor of Kathy Hung Pham, Objector/Respondent and Frederic Cann, Attorney of Respondent Minh Duy Tran. In the Matter of Guardianship of Minh Duy Tran, Case Name: Linh Thi Minh Tran, Petitioner vs. Kathy Hung Pham and Minh Duy Tran, Respondents. Case Name: A163362 was issued on 06/19/2018 by Rex Armstrong, Presiding Judge, Court of Appeals.

APENDIX D: Order Denying Reconsideration in the Court of Appeals of the State of Oregon. In the Matter of the Guardianship of Minh Duy Tran, Case Name: Linh Thi Minh Tran, Petitioner vs. Kathy Hung Pham and Minh Duy Tran, Respondents. Case Number: A163362 was issued on 12/04/2017 by Rex Armstrong, Presiding Judge, Court of Appeals.

APENDIX E: General Judgment of Dismissal the Guardianship Petition filed by Linh Thi Minh Tran with prejudice by Multnomah County Circuit Court State of Oregon Judge Patrick W. Henry was signed and entered on 10/05/2016. Case Name: In the Matter of Guardianship of Minh Duy Tran, Case Number: 15PR01376.

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

ORDERS BELOW

[X] For cases from **state courts**:

The Order Denying Reconsideration in the Matter of the Guardianship of Minh Duy Tran, Case Number: S065603 in The Supreme Court of the State of Oregon was issued on 06/07/2018 by Thomas A. Balmer, Chief Justice Supreme Court.

The Order Denying Review in the Matter of the Guardianship of Minh Duy Tran, Case Number: S065603 in The Supreme Court of the State of Oregon was issued on 06/07/2018 by Thomas A. Balmer, Chief Justice Supreme Court.

The Appellate Judgment and Supplemental Judgment in the Matter of the Guardianship of Minh Duy Tran, Case Number: A163362 in The Court of Appeals of The State of Oregon was issued on 06/19/2018 by Rex Armstrong, Presiding Judge, Court of Appeals.

The General Judgment of Dismissal in the Matter of the Guardianship of Minh Duy Tran, Case Number: 15PR01376 in The Circuit Court of The State of

Oregon For the County of Multnomah was issued on 10/05/2016 by Circuit Court
Judge Patrick W. Henry.

The Supplemental Judgment and Costs and Attorney Fees Contains Money
Award in the Matter of Guardianship of Minh Duy Tran, Case Number:
15PR01376 in the Circuit Court of the State of Oregon for the County of
Multnomah was issued on 01/05/2017 by Circuit Court Judge Patrick W. Henry.

JURISDICTION

[X] For cases from state courts:

The date on which the highest state court Oregon Supreme Court decided this case was 06/07/2018. A copy of Order Denying Petition for Reconsideration appears at Appendix A.

[x] A timely petition for a writ of certiorari in the Matter of Guardianship of Minh Duy Tran was filed to Supreme Court of the United States on 09/04/2018, and a copy of the order denying petition for reconsideration of the highest state court Oregon Supreme Court in this case was issued on 06/07/2018 appears at Appendix A.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article 7. Right to Dignity. The elderly have the inherent right to life, dignity, and the integrity of their persons, which shall be protected by law.

Article 8. Right to Freedom from Abuse, Neglect, and Exploitation. The elderly has the right to be free from abuse, neglect, and exploitation.

Article 10. Right to Adequate Healthcare The elderly have the right to a standard of living adequate for the health and wellbeing of themselves, including access to affordable health care. Adequate and affordable healthcare includes medication, immunization and medical care such as physical therapy, surgery, nursing, check-ups, in the event of sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond their control.

Article 18. Duty of the State.

18.1. The State shall have the duty to protect the health and mental well-being of the elderly when the family lacks sufficient means to do so.

18.2. The State shall have the duty to represent and protect the lawful rights and interests of the elderly.

18.4. The State shall have the duty to punish in accordance with law those who abuse, neglect, exploit or discriminate against the elderly. These duties may be carried out by the Department of Justice or the agency set out in Section 18.10.

This duty shall include, but not be limited to:

18.4.1. Enacting of criminal laws prohibiting the abuse, neglect, exploitation and discrimination of the elderly,

18.4.2. Designing and managing of a program of response and services for the elderly who have been, or are alleged to be, victims of abuse, neglect, exploitation, or discrimination,

18.4.3. Establishing a fund to aid local government agencies, provider agencies, or both, to carry out these functions, and, contingent on adequate funding, to fund attorneys or legal services provider agencies for the provision of legal assistance to the elderly.

18.6. The State shall have the duty to take measures to ensure the elderly basic necessities of life such as adequate nutrition and potable water necessary for their health and wellbeing.

The state shall also be responsible to take measures to create conditions conducive for the elderly to have access to basic amenities of life including but not limited to appropriate shelter, clothing, and sanitation as per prevailing societal standards. The State shall strive to create such conditions through committing state resources toward developing necessary infrastructure, and provision of apt economic assistance to the elderly.

18.7. The State shall have the duty to establish necessary programs and regulations that provide material assistance to the elderly and those who support the elderly.

Material assistance shall be provided in the form of tangible support necessary for the maintenance of the elderly at times when an elderly person cannot support himself or herself or rely on support from their family, including basic necessities and amenities as provided by 11.1 and 11.2.

18.9.2. Mandating frequent and continuing training for all caretaking professionals to keep these important professionals up-to date on the best practices to ensure that the health and wellbeing of the elderly are protected,

18.9.3. Providing appropriate legal structures and remedies in the case of third-party caretaker abuse or negligence,

18.9.4. Educating thirdparty caretakers and the elderly on their rights, responsibilities, protections guaranteed under this law and domestic law, and

18.9.5. Continuously supervising authorized organizations and professionals to ensure that the elderly is served in accordance with their legal rights and protections and appropriately sanction those caretaking professionals who do not adhere to this and all applicable law concerning their patients or clients.

18.10. The State shall establish a government body for the protection of the elderly

. The department shall have the responsibility to:

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18.10.1. Establish and enforce rules, regulations, and laws necessary to ensure the Rights provide by this law,

18.10.2. Evaluate, license, and monitor all programs, services, and facilities for the elderly,

18.10.3. Receive and disperse federal funds in relation to the protection of the elderly,

18.10.4. Promote community education and research regarding the problems and vulnerability of the elderly,

18.10.5. Promote collaborative efforts with local government agencies, the community, and nonprofit organizations to examine the needs and protect the interests of the elderly,

18.10.6. Develop objectives, priorities, and policy for a Protection of the Elderly Program,

18.10.7. Facilitate the development and implementation of a Protection of the Elderly Program,

18.10.8. Research issues related to elderly, including, but not limited to, abuse, neglect, exploitation, discrimination, ailments, adequate healthcare and medicine, and

18.10.9. Provide federal guidance to local government and community efforts in carrying out a Protection of the Elderly Program.

18.11. The Protection of the Elderly Program shall include elder abuse prevention, detection, treatment, intervention, and response.

STATEMENT OF THE CASE

Nature of the action and relief sought

Petitioner Linh Thi Minh Tran, filed a guardianship petition for her father Minh Duy Tran on December 4, 2015, and based on to Minh Duy Tran's medical history record documents in court files since December, 2014 to August 31, 2015 from Providence Hospital Medical Center; Portland Adventist Hospital; American Medical Response (AMR); Livanta Quality Improvement Organizations on October 14, 2015 that all these documents as described in the above of Minh Duy Tran's medical history records have been submitted to trial court Multnomah County State of Oregon by petitioner Linh Thi Minh Tran since December 2014 until present; and the Court Visitor, Angela Plowhead, produced a Court Visitor's Report on January 26, 2016 and February 8, 2016 confirmed that Respondent Minh Duy Tran was a 74 year old gentleman in a "persistent vegetative state" due to multi-focal strokes. Mr. Minh Duy Tran is currently totally disabled and completely dependent on others for all activities of his daily living and is unable to participate in his care in verbally or non-verbally communicate his needs since the stroke occurred on August 31, 2015.

Pursuant to Oregon Supreme Court Procedure ORAP 9.05, Petitioner Linh Thi Minh Tran requests petition for reconsideration an order denying review of Oregon Supreme Court dated 03/22/2018 in the matter of guardianship of Minh Duy Tran. Oregon Supreme Court Case No: S065603. Oregon Court of Appeals Case No. A163362, Multnomah County Circuit Court Case No. 15PR01376.

This matter was appealed from the General Judgment of Dismissal granted in favor of respondent/objector Kathy Hung Pham by Honorable Patrick W. Henry and Supplemental Judgment for Costs and Attorney Fees in favor of attorney Frederic Cann dated October 5, 2016, September 20, 2016, and January 5, 2017. Oregon Court of Appeals' decision before Armstrong, Presiding Judge, and Tookey, Judge, and Shorr, Judge dated October 18, 2017 granted and affirmed with the trial court's General Judgment of Dismissal without opinion and ordered appellant Linh Thi Minh Tran shall all pay costs and fees.

Nature of the judgment

The nature of the Judgments are the general judgment of dismissal of the Guardianship Petition filed by Linh Thi Minh Tran on December 4, 2015 with prejudice for failure to establish by clear and convincing evidence that any guardianship is necessary as a means of providing continuing care and supervision of the Respondent Minh Duy Tran, or that Petitioner was failure to establish that petitioner Linh Thi Minh Tran is a suitable person to be appointed guardian for
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Minh Duy Tran and trial court also ordered an entry of supplemental judgment for costs and attorney fees in favor of Attorney Frederic Cann to against petitioner Linh Thi Minh Tran in the amount of money: \$7,564.59.

Effective date for appellate purposes

The trial court's General Judgment of Dismissal was signed October 5, 2016 by circuit court judge Patrick W. Henry and was entered October 5, 2016 in favor of respondent/objector Kathy Hung Pham to against petitioner Linh Thi Minh Tran. The Supplemental Judgment for Costs and Attorney Fees was signed January 5, 2017 and was entered January 6, 2017 in favor of attorney Frederic Cann to against petitioner Linh Thi Minh Tran. Petitioner Linh Thi Minh Tran filed Notice of Appeal to Oregon Court of Appeals on October 14, 2016. The amended Notice of Appeal was served and filed on December 14, 2016. The second amended Notice of Appeal was served and filed on January 10, 2017. Petitioner Linh Thi Minh Tran filed a petition for reconsideration of the Oregon Court of Appeals' decision dated October 18, 2017, the court denied the petition for reconsideration. Petitioner filed petition for review to Oregon Supreme Court but the court denied petition for review dated 03/22/2018. Therefore, Petitioner Linh Thi Minh Tran filed Petition for Reconsideration to Oregon Supreme Court on 05/03/2018. The Oregon Supreme Court denied Petition for Reconsideration on 06/07/2018.

STATEMENT OF FACTS

The facts are Petitioner Linh Thi Minh Tran filed Petition for Appointment of Permanent Adult Guardianship of Respondent Minh Duy Tran in Multnomah County Circuit Court on December 04, 2015 who is senior men, DOB: 10/24/1944, Social Security 4 digits#7295 has lived together with Kathy Hung Pham at address 5212 SE Flavel Drive, Portland, Oregon 97206 since June, 2011 up until August 31, 2015. The Court Visitor, Angela Plowhead, produced two of Court Visitor's Report on January 26, 2016 and February 8, 2016 in that she confirmed that Respondent Minh Duy Tran is a 74-year-old gentleman in a "persistent vegetative state" due to multi-focal strokes. Mr. Minh Duy Tran is totally and completely dependent on others for all activities of his daily living and is unable to participate in his care or verbally or non-verbally communicate his needs since the stroke occurred on August 31, 2015.

On March 3, 2016, respondent Kathy Hung Pham who is old woman DOB# 09/05/1957, Social Security 4 digits# 9065 filed to the Court a letter in which she said she is respondent Minh Duy Tran's wife and she had resided to live together with Minh Duy Tran at the address 5212 SE Flavel Dr. Portland, Oregon 97206 for the last 4 years since June 4, 2011 until Minh Duy Tran has severe strokes on

August 31, 2015 and she said she has power of attorney and a Last Will and Testament of Minh Duy Tran.

Kenneth Lee Baker, Attorney of respondent Kathy Hung Pham, indicated into Kathy Hung Pham's Trial Statement that the guardianship petition should be dismissed in its entirely because respondent Minh Duy Tran's spouse Kathy Hung Pham is responsible person in the Power of Attorney and a Last Will and Testament of respondent Minh Duy Tran, that Kathy Hung Pham is empowered to solely make medical and care decisions for respondent Minh Duy Tran. If the Court choose to not dismiss these proceedings, then Kathy Hung Pham's position the guardian for Minh Duy Tran because Linh Thi Minh Tran has been estranged from her father for a number of years, has been hostile and adverse to her father and Kathy Hung Pham in US Bankruptcy Court, case number 15-rlld31294 and against Kathy Hung Pham in a civil case, Multnomah County Case number 16CV15440, asking for \$1,000,000.00. However, respondent/objector Kathy Hung Pham appeared to be a severe mental illness and her lack of understanding of what level of care would have been appropriate for respondent Minh Duy Tran to prevent further medical complications in light of a prior hospitalization for altered mental status and hyperglycemia initiated by Portland Police just one month prior to his stroke and the level of impairment described.

During the hearing, respondent/objector Kathy Hung Pham admitted before Judge Patrick W. Henry that respondent Minh Duy Tran did not like to stay in nursing home even she discussed several times with him but he did not agree to transfer into nursing skill care.

Respondent/objector Kathy Hung Pham admitted that she was not in the home address 5212 SE Flavel Drive, Portland, Oregon 97206 with respondent Minh Duy Tran during the day due to her working up to 12 hour shifts, 6 days a week at Thanh Long Bakery Restaurant and she indicted that Minh Duy Tran was in the home by himself during the day without anyone to care for him even the doctors at Providence Portland Medical Center discussed with Kathy Hung Pham through Vietnamese interpreter about how to care for respondent Minh Duy Tran after discharged from Providence Portland hospital on 03/10/2015 and 07/29/2015 and the doctors at Portland Providence Medical Center and Portland Adventist Hospital taught Kathy Hung Pham how to prevent Minh Duy Tran feel weak and high fall risks at home and how to prevent him further medical complication in light of prior hospitalizations for altered mental status and hyperglycemia of the respondent Minh Duy Tran just months prior to his stroke occurred on August 31, 2015 and at that time, Kathy Hung Pham promised to the doctors that she was planning to have somebody be with Minh Duy Tran essentially 24 hours with him

but unfortunately Kathy Hung Pham breached of her commitments instead she ignored and showed no care at all of respondent Minh Duy Tran as results he had high level of multi focal strokes on August 31, 2015 where Minh Duy Tran was found unresponsive up to 2 hours without somebody be with him at the address 5212 SE Flavel Dr, Portland, Oregon 97206 and when AMR transferred him to Adventist Portland Medical Center because he had been unresponsive up for to 2 hours caused his brain impairment dead and he has vegetative state condition for the rest of his life.

According to medical records from American Medical Response NW Multnomah County Pre-Hospital Care report (AMR) and Portland Police's Reports that Petitioner Linh Thi Minh Tran has already submitted to trial court on 09/13/2016, 04/06/2016, 02/04/2016, medical staffs AMR several times found respondent Minh Duy Tran felt on the ground at Subway, bus stop, and Max station in confused, dehydrated, and altered mental status condition without somebody be with him. Respondent Minh Duy Tran told with the doctors at Providence Portland Medical Center that he did fall risk at home 5212 SE Flavel Dr, Portland, Oregon 97206 on 07/28/2015 because a slip-on water at home and felt onto his buttocks.

According to Analysis of U.S. Administrative Law Judge, Richard S. Bush of Office of Medicare Hearing and Appeals, The September 7, 2015 Discharge Summaries Note stated that the patient Minh Duy Tran's prognosis was "very poor," that medical team doctors at Portland Adventist Hospital was discussed with respondent Kathy Hung Pham and primary doctor Dr. Hoang Quang Nguyen about significant other "multiple times during the hospitalization as well as Minh Duy Tran's primary care physician Dr. Hoang Nguyen and Kathy Hung Pham agreed for Minh Duy Tran was leaning towards comfort measures to be die because of the respondent Minh Duy Tran's condition but the patient Minh Duy Tran's daughter was subsequently involved and there was a dramatic change in plan. She wanted to remain full code and full treatment for Minh Duy Tran. A PEG tube was placed on 09/10/2015 and a tracheostomy on 09/12/2015 as results respondent Minh Duy Tran is still alive at the present and currently staying at Prestige Rehab Care at the address 405 NE 5th Street, Room 311A, Gresham, Oregon 97030.

Although the trial court has full knowledge from Dr. Angela Plowhead and Minh Duy Tran's medical history records, AMR, and Portland Police Reports to determine that Kathy Hung Pham is severe mental illness who is not able to make any medical care decision for Minh Duy Tran but Trial Court Judge Patrick W. Henry still granted General Judgment of Dismissal in this matter in favor of

respondent Kathy Hung Pham and the trial court Judge Patrick W. Henry continue granted Supplemental Judgment for Costs and Attorney Fees in favor of Attorney Frederic Cann to against petitioner-appellant Linh Thi Minh Tran in the amount of \$7,564.59.

ASSIGNMENT OF ERROR

Appellant assign as error the following:

1. The trial court erred in granting General Judgment of Dismissal in this matter in favor of Kathy Hung Pham who is severe mental illness.
2. The trial court erred in ruling Petitioner-Appellant Linh Thi Minh Tran has failed to establish by clear and convincing evidence that any guardianship is necessary as a means of providing continuing care and supervision of the Respondent Minh Duy Tran.
3. The trial court erred in ruling Petitioner-Appellant Linh Thi Minh Tran is not a suitable person to be appointed guardian of the Respondent Minh Duy Tran.
4. The trial court erred in ruling Kathy Hung Pham is suitable person to make health care decisions on Respondent Minh Duy Tran when the trial court has full knowledge that Kathy Hung Pham is severe mental illness who is not able to make any decision medical care for Minh Duy Tran.

5. The trial court erred in granting Respondent Minh Duy Tran shall pay Costs and Attorney Fees for Frederic Cann, Attorney at Law.
6. The trial court erred in granting Supplemental Judgment for Costs and Attorney Fees in favor of Attorney Frederic Cann to against Petitioner Linh Thi Minh Tran in the amount of \$7,564.59.

Preservation of Error

The Trial Court granted General Judgment of Dismissal and the trial court granted Supplemental Judgment for Costs and Attorney Fees in favor of Minh Duy Tran and against petitioner-appellant Linh Thi Minh Tran in the amount of \$7,564.59. Petitioner-Appellant Linh Thi Minh Tran preserved her claims of error by filing formal Petitioner Linh Thi Minh Tran Request Reconsider Decision of Judge Patrick W. Henry in The Trial Hearing on September 13, 2016. And Petitioner-Appellant Linh Thi Minh Tran filed Petitioner Linh Thi Minh Tran's Objection to Order regarding Attorney Fees on December 8, 2016.

Standard of Review

The trial court entertaining General Judgment of Dismissal must review all evidence and take all reasonable inferences that may be drawn therefrom in the light most favorable to Appellants. This Court is also required to view the evidence in the light most favorable to Appellants. *Schiele v. Montes*, 218 P. 3d 141, 231 Or.

App. 43, 48 (2009) (reversing motion to dismiss treated as a motion for summary judgment and citing ORCP 47C and *Jones v. General Motors Corp.*, 325 Or 404, 408, 939 P2d 608 (1977).

“[a] material fact is one that, under applicable law, might affect the outcome of a case.” *Zygar v. Johnson*, 169 Or App 638, 646, 10 P3d 326 (2000).

Where an error of law is shown to have influenced the court trying a case without a jury, reversal is necessary. *Babler Brothers v. Pac Intermountain*, 244 Or 459, 467, 415 P.2d 735 (1996).

ARGUMENTS

1. The appointment of a guardianship is necessary for the respondent Mr. Minh Duy Tran.

Minh Duy Tran is persistent vegetative state because he has suffered a multifocal stroke on 08/31/2015. According to medical documentations submitted to trial court on files and Court Visitor Report on 01/26/2016 in page 1, PsyD Angela Plowhead wrote: “Mr. Minh Duy Tran is in a persistent vegetative state who has a very poor overall prognosis. He does not follow commands and does not respond to Stimuli.” On page 1 of Court Visitor Report on 02/08/2016, PsyD Angela Plowhead wrote: “Mr. Minh Duy Tran is totally dependent on others for all Activities of Daily Living. He is unable to participate

in his care or verbally or non-verbally communicate his needs since the stroke occurred on August 31, 2016 and he does not recognize anyone or he does not response to anyone.” On page 2, Court Visitor Report wrote: “The appointment of a guardianship is necessary for Mr. Minh Duy Tran because due to significant effects of stroke and resulting medical complications Minh Duy Tran is at significant risk of harm by others with no ability to communicate a choice or desire for help.

The respondent Minh Duy Tran did not object to the appointment of a guardianship of petitioner Linh Thi Minh Tran. He did not object to the proposed of guardianship. The respondent Minh Duy Tran also did not file to the trial court any his prefer that another person act as guardianship. The trial court accepted Court visitor reports of Dr. Angela Plowhead are the trial exhibits in the trial hearing on 09/13/2016. Therefore, Petitioner Linh Thi Minh Tran believes that the appointment of a guardianship is necessary for Mr. Minh Duy Tran at this time.

2. **Respondent/Objector Kathy Hung Pham is not able to make medical treatment decision for the respondent Minh Duy Tran.**

A. Ms. Kathy Hung Pham is lack of understanding about what level of care would have been appropriate for the respondent Mr. Minh Duy Tran.

According to Court Visitor Report on 2/8/2016 on page 3, PsyD Angela Plowhead wrote: Kathy Hung Pham is working 12 hour shifts, 6 days a week at Thanh Long Bakery Restaurant. There appears to be a lack of understanding of Kathy Hung Pham about what level of care would have been appropriate for the respondent Mr. Minh Duy Tran to prevent further medical complications in light of a prior hospitalization for altered mental status and hyperglycemia initiated by Portland Police and doctors of Providence Hospital Doctors and Portland Adventist Hospital just months prior to his stroke on August 31, 2015 and the level of impairment described. Kathy Hung Pham is severe mental illness who is not able to make any medical decision treatment for respondent Minh Duy Tran. Kathy Hung Pham is not well to understand English language instead the interview Court Visitor Report with Ms. Kathy Hung Pham was conducted through the use of a friend who acted as an interpreter, as Ms. Kathy Hung Pham was not available when scheduled and unscheduled attempts were made to contact her through the use of a Medicaid medical interpreter. Therefore, objector Ms. Kathy Hung Pham does not have enough knowledge to make any further medical treatment for the respondent Mr. Minh Duy Tran.

B. Ms. Kathy Hung Pham agreed and admitted in the trial hearing on September 13, 2016 before Judge Patrick W. Henry that she was lack of

understanding and she did not have appropriate level of care for respondent Mr. Minh Duy Tran caused he had severe stroke and level of brain impairment persistent vegetative state.

Ms. Kathy Hung Pham agreed and admitted during the trial hearing that she and the respondent Mr. Minh Duy Tran used to live together at the house address 5212 SE Flavel Drive, Portland, Oregon 97206 since June 4, 2011 until August 31, 2015. The both of them purchased the house 5212 SE Flavel Drive, Portland, Oregon 97206 on May 2011. The respondent Minh Duy Tran was brought to Portland Adventist Hospital Emergency Department for severe stroke on August 31, 2015. Objector Kathy Hung Pham said to the court that the respondent Mr. Minh Duy Tran DOB# 10/24/1944 is her legal husband at this time. She also said they married in Viet Nam on July 4, 2000. If Kathy Hung Pham is the respondent Mr. Minh Duy Tran's wife as she said, she shall responsible give the respondent appropriate level of care and be with him 24 hours/day to prevent risks and stroke that medical doctors at Providence Hospital Medical Center and Portland Adventist Hospital discussed and explained with her with the interpreter on December 10, 2014, March 2015, and July 29, 2015. Unfortunately, Ms. Kathy Hung Pham showed negligence and no care of the respondent Minh Duy Tran. Instead she ignored or did not paid attention what medical doctors said to her with interpreter about how to prevent further medical complications in light of prior hospitalizations for altered mental

status and hyperglycemia of the respondent Mr. Minh Duy Tran just months prior results Minh Duy Tran has severe stroke and the level of brain impairment dead described as in his medical history records caused him persistent vegetative state condition for the rest of his life.

C. The respondent Mr. Minh Duy Tran felt weak and slid down to the ground at SE 82nd Ave on 12/09/2014 while he walked down from SE Flavel Drive to SE 82nd Ave by himself without somebody be with him to buy food.

According to medical documentations, on 12/09/2014 the respondent Mr. Minh Duy Tran felt weak and slid down to the ground while walking down 82nd Ave from SE Flavel Drive to buy food. When he collapsed in the street and could not get up and he was brought to Adventist Medical Center Portland at 10123 SE Market Street, Portland, Oregon 97216 on that date with the character of symptoms was unable to walk.

D. The respondent Mr. Minh Duy Tran was found in a parking lot and fell to the ground because altered mental status, moderate confused, and vision blind due cataract surgery on March 10, 2015 without somebody be with him.

On March 10, 2015 the respondent Mr. Minh Duy Tran was found wandering in a parking lot near shopping complex and he seemed confused without anyone beside him at that time he fell. He fell to the ground. He could tell his name and part of his phone number but no other information. He

presented to Providence Portland Medical Center emergency department at 4805 NE Glisan st, Portland, Oregon 97213- 2933 on the same date for evaluation of altered mental status, moderately confused, and critically high CBG. The respondent could not tell his phone number and other information. Medical Doctor Shannon Elizabeth Jackson at Providence Medical Center discussed with Ms. Kathy Hung Pham when she went to hospital through Vocera translator about the lists of risks of the respondent Mr. Minh Duy Tran including additional falls, dehydration, injury, kidney failure, and severe illness but again objector Kathy Hung Pham was negligence and showed no care for respondent Minh Duy Tran.

E. The respondent Mr. Minh Duy Tran was found by Portland Police at Max stop while he was altered mental status, moderate confused, weakness, dehydration on July 29, 2015 without somebody be with him 24 hours/day.

On 07/29/2015 Portland Police found the respondent Mr. Minh Duy Tran was altered mental at a Max stop without anyone beside Minh Duy Tran at a Max stop at that time. The respondent Minh Duy Tran was still confused and having a difficult time providing history. Mr. Minh Duy Tran was at the Max train and appeared weak and confused after the police officers were concerned and called EMS. The respondent Minh Duy Tran told to police that he fell yesterday at home 5212 SE Flavel Drive, Portland,

Oregon 97206 and landed on his buttock. At that time, Mr. Minh Duy Tran was not able to see because he had cataract surgery. He described the fall as a slip on water at home, and fell onto his buttocks. Mr. Minh Duy Tran was brought to Portland Adventist Hospital Emergency Department for evaluation renal failure, confused, diabetic foot ulcers and neuropathy. Doctor William Spurlock discussed the plan with the respondent Mr. Minh Duy Tran and Ms. Kathy Hung Pham when she arrived to the hospital later at bedside with the interpreter prior to discharge. Doctor explained to Kathy Hung Pham that Mr. Minh Duy Tran was high fall risk and he needed to have somebody be with him essentially 24 hours at this time. Ms. Kathy Hung Pham admitted before Judge Patrick W. Henry that she had knowledge and fully understood what doctors discussed and explained to her about Mr. Minh Duy Tran's planning care to prevent high fall risk and severe stroke but unfortunately, Kathy Hung Pham did not listen, did not care, did not pay attention, did not give him appropriate level of care, and did not be with him at home 24 hours/day that results Mr. Minh Duy Tran had severe stroke and level of brain impairment dead persistent caused he is persistent of vegetative state for the rest of his life.

F. The respondent Minh Duy Tran was found unresponsive at home 5212 SE Flavel Drive, Portland, Oregon 97206 on August 31, 2015 by objector Kathy Hung Pham for at least an hour and half prior to him being brought

IN THE MATTER OF GUARDIANSHIP OF MINH DUY TRAN. Petition For A Writ of Certiorari. Petitioner Linh Thi Minh Tran, 12542 SE Capella Court, Happy Valley, Oregon 97086 | Tel: 503-558-0886 | Email: minhlinhtrn@gmail.com | Page 34 of 45

into the emergency department because Kathy Hung Pham did not call 911 immediately at 9:00 PM on that night instead she made a phone call to ask her friend and her sister Huong Dang then she waited until 22:20 pm on that night 08/31/2015 to call 911 caused Minh Duy Tran to have severe stroke and level of brain impairment dead that results he is persistent vegetative state condition for the rest of his life.

On 08/31/2015 the respondent Minh Duy Tran was found unresponsive at home address 5212 SE Flavel Drive, Portland, Oregon 97206 at 9:00 PM by Kathy Hung Pham. He was unresponsive for at least an hour and half prior to him being brought into the emergency department at Adventist Medical Center Portland 10123 SE Market Street, Portland, Oregon 97216 at 22:20 PM. Upon medical documentations, the respondent was brought to ED at Adventist Medical Portland Hospital at 22:20pm on August 31, 2015. At that time, his blood glucose dropped down abnormal 19. He has since been intubated and unresponsive at Adventist Medical Center. He has not been on any sedation and he has not aroused. He has no purposeful movements and has been unable to wean off his ventilator. He was unable to eat and has been getting fed through an NG tube. Kathy Hung Pham indicated to medical staffs at Adventist Emergency Department that she was unaware how much insulin he injected on that date but she stated she noticed that the respondent Mr. Minh Duy Tran skipped lunch. Objector Kathy Hung Pham left Mr. Minh Duy Tran at home at 5212 SE Flavel Drive, Portland, Oregon 97206 by himself without somebody

be with him and she went to work at Thanh Long Bakery Restaurant for the shift 12 hours on August 31, 2015. When Ms. Kathy Hung Pham returned from work that night at 9:00 PM she found Mr. Minh Duy Tran unresponsive in bed but unfortunately, she made big mistake by she did not call 911 immediately at that time instead she asked her friend or sister what to do next and she waited until 22:20 pm to call 911 and Minh Duy Tran was brought emergency to Adventist Medical Center emergency room. Because Kathy Hung Pham failed to call 911 immediately at 9:00 PM when she found Minh Duy Tran unresponsive in bed caused the respondent Minh Duy Tran was unresponsive for at least up to 2 hours prior to him being brought into the emergency department results he had severe stroke and his brain severe damages and dead caused him persistent vegetative state condition for the rest of his life.

G. Ms. Kathy Hung Pham made severe errors decision about medical treatment for the respondent Mr. Minh Duy Tran on 09/06/2015 when she agreed multiple times during the hospitalization as well with the respondent's primary care physician that she wanted Mr. Minh Duy Tran was leaning towards comfort measures to be die that means the doctors would withdraw all the respondent Minh Duy Tran's ventilation machine and let him die with leaning comfort measures.

On 09/06/2015 Ms. Kathy Hung Pham made severe mistake because she multiple times agreed with the doctors at Portland Adventist Hospital emergency department during hospitalization as well with the respondent Minh Duy Tran's

primary care physician Hoang Quang Nguyen that she wanted doctors withdrew all ventilator machine from the respondent Minh Duy Tran to let him die in leaning towards comfort measures. If petitioner Linh Thi Minh Tran did not appear and she did not involve on 09/08/2015 planning medical care to change the respondent Minh Duy Tran's treatment plan by she requested remain full code and full treatment to Minh Duy Tran, the respondent Mr. Minh Duy Tran might die on the date 09/09/2015. Objector Ms. Kathy Hung Pham wanted the doctors withdrew the entire ventilator machine to let the respondent Mr. Minh Duy Tran die in leaning towards comfort measures on 09/09/2015 although the respondent was brought to ED at Portland Adventist Hospital only 9 days. Therefore, petitioner beliefs that Kathy Hung Pham is severe mental illness who is not able to make any further medical treatment for the respondent Minh Duy Tran due to Kathy Hung Pham's lack of understanding of medical knowledge and lack of level appropriate care. It is very dangerous for the respondent Mr. Minh Duy Tran if Kathy Hung Pham who is severe mental health issue continue to make medical treatment decisions future for Minh Duy Tran and she wants Minh Duy Tran die for her personal benefit purposes.

REASONS FOR GRANTING THE PETITION FOR A WRIT OF CERTIORARI

For the foregoing arguments in the above, pursuant to U.S Constitutional and Statutory Provision involved to THE PROTECTION OF THE ELDERLY and based on appendices of Minh Duy Tran's medical history records from American Medical Ambulance (AMR), Providence Portland Hospital Center, Portland Adventist Emergency Hospital, Portland Police Reports, Eye Health Northwest, Vibra Specialty Hospital, Office of Medicare and Hearing Appeals, Multnomah County State of Oregon Court Visitor Reports, in the matter of the guardianship of Minh Duy Tran from beginning up to present to determine that the trial court erred when it granted the General Judgment of Dismissal in this case in favor of objector Kathy Hung Pham who is severe mental health issue and abuse elderly senior Minh Duy Tran. **If Kathy Hung Pham continue has authority to make any future medical decision for Minh Duy Tran results**
Minh Duy Tran will be life threatened or even dead. Therefore, Petitioner Linh Thi Minh Tran respectfully requests Supreme Court of the United States reversed the Multnomah County State of Oregon trial court's General Judgment of Dismissal and reversed the Supplemental Judgment in favor of Attorney Frederic Cann to against Petitioner Linh Thi Minh Tran in the amount of

**\$7,564.59 and grants for petitioner Linh Thi Minh Tran's petition for
appointment permanent of guardianship Minh Duy Tran.**

CONCLUSION

For the foregoing arguments in the above, the petition for a writ of certiorari should be grant.

Respectfully submitted,

Dated: 09/04/2018



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