

1 MR. BAKER: We'll waive closing.

2 THE COURT: All right. Very good.

3 MS. TRAN: Can I say something?

4 THE COURT: You can say one thing, yes.

5 MS. TRAN: In the beginning, your Honor
6 stated that there's no way they didn't ask that Ms. Pham
7 be appointed as a guardianship. And the power of
8 attorney was not signed by Mr. Tran. So I don't know
9 who Mr. Tran brought up the power of attorney when it's
10 invalid.

11 THE COURT: Thank you very much. The
12 court's ready to rule. I'm going to dismiss the
13 petition for the following reasons: First of all, there
14 hasn't been proof by clear and convincing evidence that
15 a guardian is necessary in this case.

16 I understand the court visitor's position,
17 but the only testimony that I heard is that though Mr.
18 Tran is incapacitated, he is getting appropriate care in
19 the facility where he's residing. The care he is
20 receiving he is receiving under the direction of Ms.
21 Pham and she has been approving of care that's
22 appropriate.

23 If in the future the problems with the
24 power of attorney, if they create a problem as far as
25 medical decision making is concerned, there may be in

1 the future the need for the appointment of a guardian.

2 But at this time, I've not received
3 evidence by clear and convincing evidence that a
4 guardian is necessary.

5 As to the second issue as to why I'm
6 dismissing the petition, is that I'm going to find that
7 Ms. Tran is not suitable to act as the guardian for her
8 father.

9 The plan that she has proposed to take him
10 out of the nursing home where he's receiving care is not
11 an appropriate plan and she did not provide a safe plan
12 or a realistic plan for him to return to Vietnam.

13 The petitioner has represented to the
14 courts in numerous filings that she's suffered a brain
15 injury that has a significant impact on her ability to
16 make decisions.

17 It also is a strong consideration for the
18 court in evaluating whether Ms. Tran can act as the
19 guardian and I find that because of the brain injury
20 that she has represented to the court, that it would not
21 be appropriate, given its impact on her cognitive
22 abilities.

23 I also find that the petitioner's not
24 demonstrated that she could protect and promote the
25 relationship between the protected person and his wife.

Paula M. Shirey, RPR, CSR
2678 Sharon Way, Eugene, OR 97401
(541) 343-0807

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1 I also find that the evidence is that she has made it --
2 that she's developed difficult relationships with
3 medical professions -- professionals who work with her
4 to the point that she made a placement for her father in
5 an appropriate setting difficult. This is the exact
6 opposite of what you want a guardian to be doing.

7 Finally, Ms. Tran has demonstrated a lack
8 of insight into the protected person's -- proposed
9 protected person's current needs. And that she has at
10 times requested inappropriate therapies.

11 And the court's going to find and the
12 court understands your desire, Ms. Tran, to return to
13 Vietnam with your father, but part of the plan for him
14 currently is to keep him safe and comfortable to allow
15 physical therapists and other providers to work with him
16 to see if his condition can be improved.

17 Though I agree with Mr. Cann that Ms.
18 Tran, your motivations seem to be very good, I think
19 there are a number of ways that you just lack insight
20 into what the role of a guardian would be. For those
21 reasons, I will be dismissing the petition. If I could
22 have Mr. Baker prepare a form of order.

23 MR. BAKER: I'll do that Your Honor.

24 THE COURT: Mr. Cann anything?

25 MR. CANN: That's all.