

CASE NO: 20-1455

**IN THE
SUPREME COURT OF THE UNITED STATES**

In Re Estate of Deborah Cheng

MARY RALEIGH
Petitioner-Appellee

and

CHARLES P. GOLBERT
Public Guardian, Appellee

v.

DEBORAH CHENG
Respondent-Appellant

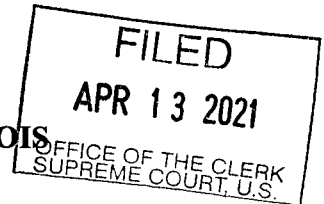
**ON PETITION FOR A WRIT OF
CERTIORARI TO THE SUPREME COURT OF ILLINOIS**

PETITION FOR A WRIT OF CERTIORARI

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Oral Argument Request

ORIGINAL



QUESTIONS PRESENTED

1. Did Congress intend the probate exception to include the 2016 Obama's SNT law in the 21st Century Cures Act?
2. What is the scope of the probate exception involving the Court's guidance on the planned national implementation of the 2016 Obama's SNT law?

LIST OF PARTIES

The parties to the proceedings are Mary Raleigh, Charles Golbert, and Deborah Cheng. Mary Raleigh is the Petitioner-Appellee and Guardian ad Litem of Illinois. Charles Golbert is the Public Guardian and Appellee from the Cook County Office of Illinois. Deborah Cheng is the Respondent-Appellant of Illinois.

RELATED CASES

Published version of *Wolin Rosen, Ltd. v. Kaplan* (In Re Estate of Kaplan) 2019 Ill. App. 180154 (Ill. App. Ct. 2019) from In Re Estate of Joel Kaplan 2018 IL App. 170540-U Order and trial court No. 16 P001240.

In re Estate of Wellman
174 Ill. 2d 335 (1996) 673 N.E.2d 272, 220 Ill.Dec. 360

In re Guardianship of Berchau
No. 10-7844-IN3 (Fla. Cir. Ct. Dec. 4, 2014)

Kennedy v. Chambers
2013CV234409, Superior Court of Fulton County
State of Georgia, Atlanta

INTRODUCTION

My father passed away on March 2, 2016 and the Executor filed his will on March 21, 2016. No one contested the will because of this clause "the Agreement makes the grantor's wishes clear that if any beneficiary or a representative of the beneficiary legally challenges the trust or its provisions, then that party's distribution shall be retained and distributed among the other beneficiaries." Quoted from page 20 of the will that is described in page 4 of Mary Raleigh's May 22, 2018 Report of Guardian ad Litem. This will was admitted to Probate Court on August 24, 2016.

My father created a revocable living trust on July 26, 2004 but he did not fund the trust. The original benefit of any trust was to build a church for God in heaven. According to David B. Greene's website, "A trust can remain open for up to 21 years after the death of anyone living at the time the trust is created, but most trusts end when the trustor dies and the assets are distributed immediately."

This fact of my father's promise to God to build Him a church was in his original will and any other versions of the will that he gave a copy to each of his children and bank such as Harris Bank. It appears that a new lawyer convinced my father to keep that promise private and omitted that fact in the revision of the final will.

My father's promise to God must be kept and fulfilled. My father was advised not to put the funds into a charity trust because his estate can grow from all sources of income, including patents, trademarks, copyrights, and other investments, in the United States of America and in other countries. He named his four children to be trustees of this trust to pay all the required taxes and to handle all other legal matters.

This new lawyer for my father's final will included the special needs trust (SNT) clause that is never required in a pour-over will. This clause is against my father's belief and how he raised his children to handle incapacitated cases. Because of this new clause, Petitioner Mary Raleigh is allowed to file a Petition For Guardianship over the Estate of one of the trustees.

From Michelle L. Soto's President Barack Obama Signs New Legislation Regarding Special Needs Trust (January 12, 2017), "On December 13, 2016, President Barack Obama signed the 21st Century Cures Act (Act) allowing individuals to create their own self-settled special or supplemental needs trust (SNT), without having to go to court." Nobody has enforced this new law.

Although Congress passed the SNT law, it appears that each state has not made their own legislation. Because there are no amendments in the state's constitution, judges continue to rule based on the mistake from the OBRA'93 Act. Did Congress intend the probate exception to include the 2016 Obama's SNT law in the 21st Century Cures Act? What is the scope of the probate exception involving the Court's guidance on the planned implementation of the 2016 Obama's SNT law?

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OPINIONS BELOW

Because the Respondent directly appealed from each level of the Court, nothing has been published.

The order of the Illinois Supreme Court's denial of the Petition for Leave To Appeal (Appendix 1) for No. 126292 is unpublished.

The opinion of the First District Appellate Court of Illinois (Appendix 2) for No. 1-19-1490 is unpublished. The order of the First District's denial to review the Petition for Rehearing (Appendix 3) for No. 1-19-1490 is unpublished.

The state trial court's judgment (Appendix 4) for No. 2018 P 5865 is unpublished. The ruling for Motion to Reconsider (Appendix 5) for the same case number is unpublished.

JURISDICTION

The Illinois Supreme Court denied the Petition for Leave to Appeal on November 18, 2020. This Petition for the Writ of Certiorari is timely filed.

I, the respondent, requests a writ of certiorari to review this order with a final opinion of the Appellate Court of Illinois pursuant to 28 U.S.C. §1257(a).

STATUTORY PROVISIONS INVOLVED

From Michelle L. Soto's President Barack Obama Signs a New Legislation Regarding Special Needs Trust (January 12, 2017), "On December 13, 2016, President Barack Obama signed the 21st Century Cures Act (Act) allowing individuals to create their own self-settled or supplemental needs trust, without having to go to court."

28 U.S. Code §1331 - Federal question

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. (June 25, 1948, Ch. 646, 62 Stat. 930; Pub. L. 85-554, 1, July 25, 1958, 72 Stat. 415; Pub. L. 94-574 2, Oct. 21, 1976, 90 Stat. 2721; Pub. L. 96-486, 2(a), Dec. 1, 1980, 94 Stat. 2369.)"

Possible cases involving a federal questions are:

United States v. Sayward, 16 S. Ct. 371, 160 U.S. 493, 40 L. Ed. 508

Fishback v. Western Union Tel. Co., 16 S. Ct. 506, 161 U.S. 96, 40 L. Ed. 630

Halt v. Indiana Manufacturing Co., 1900, 20 S. Ct. 272, 176 U.S. 68, 44 L. Ed. 374

NATURE OF THE CASE

I. The Decedent's Estate

My father's estate plan included a revocable living trust and a pour-over will. The living trust is only revocable while the grantor, my father, is alive. My father left his entire estate out of the Trust.

After his passing, his trust may have some of the same features as irrevocable trusts. I have also learned the secrets behind the success story of Anne Cox Chambers's inheritance. Anne Cox Chambers lived to be 100 years old. Like Anne Cox Chambers, I also inherited the gene of longevity from my grandfather who was on my mother's side of the family and who did not have any mental illness.

Anne Cox Chambers was the daughter of a former governor, James Middleton Cox. James was a three-term governor of Ohio and the founder of Cox Enterprises. Although his "genius-type idea" of a new family trust of interest income only for Anne and the principal goes to her grandchildren. Here are the following quotes from Mark Meltzer's A torch passed: Dissolution of trust turns Cox Enterprises over to next generation on January 2, 2015 that may guide you to make a wise decision.

First, "A year ago, a Fulton County Superior Court judge agreed to dissolve the trust set up in 1941 by her father, Cox Enterprises founder Gov. James M. Cox, to provide for Chambers throughout her life."

Second, "the dissolution of the trust also 42 million shares to Cox Enterprises. And 116 million shares went to JKR Ventures, L.P., a limited partnership set up her children in 2008."

Third, "Chambers and her family had asked the judge to dissolve the Trust because she has no further need for the income it generated."

Granting Mrs. Chambers only an income interest in the Trust and preserving the Trust principal for Mrs. Chamber's descendants illustrates Governor Cox's intention to provide financial support for Mrs. Chambers during her life and to assure adequate provisions for her descendants after her death, the filing states.

Therefore, Governor Cox's intent to have the Trust support Mrs. Chambers financially during her life has been completely fulfilled, and the continuance of the Trust would further no useful purpose."

Furthermore, Elizabeth Olmstead released the following statement on behalf of the company: "More than a year and a half ago, documents were filed to dissolve a trust originally created by James M. Cox in 1941 to provide income for his daughter, Anne

Cox Chambers, with the Trust's property in the form of company shares to go to her descendants at her death.

Mrs. Chambers, who is now 95 years of age, has a long and generous history of philanthropy. Since the 1980s, she had made a series of gifts of all of the trust income to various charities with the consent of all beneficiaries. A portion of the trust assets were distributed to the charities representing their interests, and the remaining assets were distributed to Mrs. Chamber's descendants. Some benefiting organizations included the Atlanta Botanical Garden, the Atlanta Historical Society, and Emory University."

My sister, the Executor, got me involved to help her with this case by filing a Motion of Declaratory Judgment to the Court on October 25, 2017. The Executor filed this paperwork to help her to hold this case under my name.

Prior to submitting this case to the Court, my sister made me sign the Power of Attorney Form to protect me from any future litigation over any special needs trust. Unfortunately, the Power of Attorney form was not properly witnessed.

Why Special Needs Trust?

This new lawyer included the special needs trust clause in my father's final will that is not required for revocable living trust and is against everything how my father raised his children to handle incapacitated cases. You have to study the formation of my father's bank accounts to know what he had in mind.

Simply put, what my father had in mind was a joint bank account for someone who would become incapacitated. Both of my biological parents had only joint bank accounts with all their children that started at a young age. Parents dream about their children's future - their career, their marriage, and their grandchildren.

Without a valid Power of Attorney form, Mary Raleigh filed a Petition for the guardian of estate on August 21, 2018. This case has been moved to the guardianship court with an "uncertified petition" in 2018 and the Appellate Court in 2019 and the Illinois Supreme Court in 2020.

II. Trial Court for Deborah's Estate

Petitioner Mary J. Raleigh, also known as the Guardian ad Litem, filed this case in the trial court to determine whether a Public Guardian from the Cook County of the Public Guardian ("OPG") should be appointed as plenary guardian of the estate only for a trustee but this person may not be a true beneficiary of any distribution. The petition states that the approximate value of the Respondent's estate is the personal inheritance.

The reason for the Petitioner's filing is the following from item 8 of the GAL's report to Honorable Kathleen McGury under the belief that I received public benefits: "I

believe it is in her best interests to have a Guardian of the estate appointing to protect her distribution from her father's decedent's estate."

The medical truth of this case is that there are no valid hospital/medical bills that require any payment for all hospitalizations from 2007 to 2019. There is no need to consider a special needs trust or a payback trust. Write-offs and private donations have been applied to the mistakes of this case. In addition, I should never have been transferred to Dr. Patel because there is no legal hospital/medical transfer certificate. No valid doctor's testimony. No diagnosis. No OPG. End of story.

I have learned the financial truth of this case from meeting staff and patients at MADO and others. Every judge's order for the creation of the special needs trust allows all the money to be transferred under the plenary guardian's name and therefore creating something like a blind trust.

I have never been a Welfare Link recipient. A worker at MADO explained to me that Medicaid and Medicare do not pay anything until a person only has \$2,000 in their total assets. All expected inheritance is considered assets and income.

From Justia's What Do Probate Courts Do?, "Probate Courts determine the validity of wills, enforce wills and hear disputes over wills. These courts also determine and dispose of the assets of people who died intestate; i.e. people who die without a will. Probate Courts may also hear issues of cases dealing with trusts, guardianships, and conservatorships". See full details of the trial in Appendix 4.

III. Appellate Brief and Petition For Rehearing

Although the trial court judgment was not based on a jury verdict, the Court entered a judgment on March 19, 2019 in favor of the Petitioner Mary J. Raleigh. The Appellate Court affirmed this decision on April 17, 2020.

After the Appellate Court filed a per curiam opinion, I filed my pro se brief for the Petition For Rehearing. The Court did not grant review for that petition because I did not have a lawyer.

IV. IL Supreme Court

This Court did not grant review for the Petition to Leave to Appeal. You cannot file the Petition for Restoration because the current Court system will not dismiss the Petition for Plenary Guardian or vacate the Order for Plenary Guardian "properly". We are waiting for the upgrade of the Court's computer system to allow a judge to select the "out-of-court" option for contested guardianship cases.

This new computer option will also comply with the 2016 Obama's SNT law in the 21st Century Cures Act that allows individuals to create their own self-settled special or supplemental needs trust (SNT) without having to go to court. See *In re Estate of*

Wellman 174 Ill. 2d 335 (1996) 673 N.E.2d 272, 220 Ill.Dec. 360 and In re Guardianship of Berchau No. 10-7844-IN3 (Fla. Cir. Ct. Dec. 4, 2014).

REASONS FOR GRANTING THE PETITION

The order for denial of the Petition for Leave of Appeal from the Illinois Supreme Court is an "interlocutory order" that is appealable on review from a final order. Here are the other reasons to grant the Petition For Writ of Certiorari.

I. Follow The World-Wide Leaders

The article "What Happens When A President Becomes Ill or Incapacitated While In Office?" by Jessica Pearce Roundt found in the History Channel, updated on October 13, 2020.

This is an uplifting article that even former Presidents of the United States of America become seriously ill and/or incapacitated during their reign in office and after they leave the highest office. For example, Woodrow Wilson was incapacitated during his second term from stroke and the 1918 pandemic and nobody even suggested special needs trust during his presidency and when he was out of the office. Simply put, if the former Presidents of the United States does not have a special needs trust, then I do not need to have one.

It appears that the OBRA'93 Act and the 2016 Obama's SNT law in the 21st Century Cures Act are in conflict with the Constitution, the 25th Amendment, and what the Founding Fathers had in mind to handle incapacitated cases when people work and when they do not. Based on 28 U.S. Code §1331, the U.S. Supreme Court has federal jurisdiction to review whether Congress intend the probate exception to include the 2016 Obama's SNT law.

What is Probate Exception?

It is defined as "Probate exception is not compelled by the text of the Constitution or federal statute. Probate exception is judicially created doctrines stemming in large measure from misty understanding of English legal history." Markham v. Allen, 326 U.S. 490 (1946), the Court endeavored similarly to curtail the "probate exception."

What is the scope of the probate exception involving the Court's guidance on the planned national implementation of the 2016 Obama's SNT law?

What people admire about United States of America (U.S.A.) is that we help each other in God's love and we follow Jesus Christ's leadership model of serving others. Jane Addams won a Nobel Prize for her Hull House work. When you help others, you must

give them dignity and respect. The right way to help someone is without labeling this person incapacitated and without creating a special needs trust.

The only law book that I know and understand is the Holy Bible. From the Bible, Jesus's reply about the greatest commandment in the law, Jesus replied, " 'Love the Lord your God with all your heart and with all your soul and with all your mind.' This is the first and greatest commandment. And the second is like it: 'Love your neighbors as yourself.' All the Law and the Prophets hang on these two commandments." (Matthew 22:37-39 NIV)

It is God's love that helps Christians to give dignity and respect to people like Helen Keller. She was blind and deaf since infancy. Because she was never labeled, her parents and many other people helped her. Because of the great leadership in America, she lived a long life and was a success. She was also a college graduate. Her example proves that you can help people without a special needs trust.

Another example is the recent passing of Prince Philip and Duke of Edinburgh in London, Princess Anne said that he "treated everyone as an individual, and gave them the respect he felt they were due as individuals."

And Justin Welby, the Archbishop of Canterbury, said in a tribute to Prince Philip: "He consistently put the interests of others ahead of his own and, in so doing, provided an outstanding example of Christian service."

In summary, because God in heaven apply the Golden Rule to each person I interact with, get me involved only when you can treat me well. Here are other quotes from the Holy Bible that may guide you to make a wise decision.

1 Timothy 5:7-8

"Give the people these instructions, too, so that no one may be open to blame. If anyone does not provide for his relatives, and especially for his immediate family, he has denied the faith and is worse than an unbeliever."

2 Kings 8:1-6.

The story of the Shunammite's Land restored is about the request to give back the land to this woman who left the country for 7 years.

"The king was talking to Gehazi, the servant of the man of God. At the same time, she came to beg the king for her house and land. Gehazi said, 'This is the woman, my Lord, the king, and this is her son whom Elisha restored to life.' The king asked the woman about it, and she told him. Then he assigned an official to her case and said to him, 'Give back everything that belonged to her, including all the income from her land from the day she left the country until now.'"

What was the OBRA'93 mistake?

Here is a passage from Morris Klein's *The Voice* (e-mail newsletter of The Special Needs Alliance) The "Special Needs Trust Fairness Act" is Finally Law: Individuals with Disabilities Can Now Establish Their Own Trusts.

"Due to an unfortunate omission, however, the law inexplicably did not permit individuals with mental capacity to establish their own SNTs. Some observers think this omission was an oversight as the law was quickly assembled near the end of the congressional term, because another section of the law did allow individuals with disabilities to create their own first-party sub-accounts in a pooled SNT. Unfortunately, government agencies have strictly construed and enforced this omission."

What law? "On that long-awaited December day, President Obama signed into law the "21st Century Cures Act...which adds the words "the individual" to the list of permissible settlers of first-party SNTs." And "this seemingly small (yet effectively) monumental change corrects a legislative error made more than 23 years ago in the Omnibus Budget Reconciliation Act of 1993 (OBRA'93)."

On the other hand, the Petitioner may argue about similarity of Obama's SNT law to school compensations of NCAA cases that lawyers will not getting paid. See USA Today Supreme Court justices grill NCAA article by Steve Berkowitz on March 31, 2021.

II. Do It Right The First Time

My sister does not know all the assets and/or liabilities of my father's estate for the final paperwork to transfer all the assets to the trust. No probate judge can approve the creation of any trusts that may be considered tax evasions or cause IRS to generate back pay taxes.

The only solution is the following: Doing it right the first time in probate Court means dissolving all the trusts before any inheritance distribution and move the entire decedent's estate to the Executor's own company to pay all the taxes. See *Kennedy v. Chambers* 2013CV234409, Superior Court of Fulton County State of Georgia, Atlanta. This is a case why a judge agreed to dissolved the family trust for Anne Cox Chambers.

Furthermore, I and my father do not qualify for trusts. Trusts are created to show a sign of social status and power for the rich or wealthy people. To be considered "rich", Americans say you need a net worth of at least \$2.3 million dollars, according to Charles Schwab in the 2019 Modern Wealth Survey.

III. Maintain People's Dignity And Respect

I am 46 years old and I have never had any surgery excluding wisdom teeth extraction. I was only stranded. I was never homeless because God in heaven sent good

people to help me pay my way through what I must experience to write all of my Appellate brief and others. And there are "no missing person" report on me. After all doctors did a complete T.B. testing because my father passed away, I learned that I have never been exposed to tuberculosis germs.

Raised in Baptist values, I never drank alcohol, never smoked, never did illegal drugs, and never been prescribed psychiatric medications before my early 30s. I was never institutionalized because all the public hospitals selected for me allowed me to wear my own clothes after check-in.

All these places including MADO allow people the option to private pay. At MADO, the staff only selects "patients who are low risk to them." MADO's policy is if you admitted yourself, you can sign the Leave AMA form without having any overnight stay. However, if you were admitted by a Power of Attorney or a family member or others, the staff need this person's permission to allow you to sign the Leave AMA form.

My sister, the Executor, does not know what the true assets of my father's estate and no probate judge can approve the creation of the trust for any tax evasion. Because the Executor does not know the exact amount of the money from the estate to be spent for building the church for God, there can be no final budget for the restoration process of the guardianship for my case.

Because I am someone who cannot be restored, other judges would have ruled differently. Because every judge tries to maintain the dignity of each individual by allowing a person to be restored, Marcie Helfer and Chris Keheler should have won my case by default.

CONCLUSION

"It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction, if it should. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given."

Chief Justice Marshall in Cohen v. Virginia

I am only satisfied with the world-class God's plan for my life. This idea of special needs trust does not seem to come from God in heaven. Therefore, grant the writ of certiorari- this is my petition.

Sincerely yours,
Deborah Cheng
Date: April 13, 2021