

APPENDIX TABLE OF CONTENTS

	Page
Petition for Temporary – Financial Exploitation Protective Order Q1-AF-3) (Filed July 28, 2021] <i>Exhibit</i>	App. 1
Order Appointing Guardian Ad Litem and Directing Mental Hygiene Commissioner to Conduct Evidentiary Hearing on Matters Alleged in Petition For Financial Exploitation Protective Order – The Honorable Carrie Webster (21-AF-3) (filed August 20, 2021).....	App. 3
Findings and Recommendations of Mental Hygiene Commissioner Order of the Court Denying Permanent and Dismissing Temporary Financial Exploitation Protective Order (Hearing November 4, 2021) and now (Case 21-G-3) is added to give the <i>false impression the Guardian case and a full financial exploitation case was heard</i>	App. 8
Order of Appointment of Guardian and/or Conservator The Honorable Judge Maryclaire Akers (Case 2021G-20-0083-OA) filed November 21, 2021, however, was <i>not received until July 8, 2022</i>	App. 15
Supreme Court of Appeals – Dismissal (SCA: <i>Apr. 03, 2023</i>).....	App. 25
The Supreme Court of Appeals was contacted because the Intermediate Court personnel stated that their office had no jurisdiction of the case since their establishment was July 1, 2022.	

APPENDIX TABLE OF CONTENTS – Continued

	Page
Given the Guardian 6-month accounting was supposed to be heard by the Honorable Mary-claire Akers who filed the final order, the hearing never took place. The court operates on a “final order” and “out of time” protocols. The request was not to set aside the guardian/conservator appointment order, but to ensure responsibilities were addressed, however the appointment order was received purposely “out of time” thus an appeal to the higher court. There is one clerk of courts for both the Intermediate and Supreme Court of Appeals. I was instructed to file it (with a stated motion) with the Intermediate Court of Appeals even though I was informed that the court does not have jurisdiction and it would be out of time if the office had jurisdiction. Upon receiving the notice and within 30 days, I was informed by the clerk of courts to file a motion to the Supreme Court of Appeals because it would be within 30 days so it would not be out of time. Notwithstanding, the appeal was dismissed for being “out of time”	2
This case was deceptively and unethically not heard by the lower court in the best interests of the protected person	3

**INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA**

ICA EFiled: Feb 13 2023
03:14PM EST
Transaction ID 69138749

In re: S.A., a protected person,
vs.) No. 23-ICA-47

ORDER

On February 13, 2023, at a Regular Term of the Intermediate Court of Appeals, the following order was made and entered:

On February 9, 2023, Petitioner Stuart Barnes, self-represented, presented to the Court a notice of appeal from an order of the Circuit Court of Kanawha County (Case No. 2021-G-20-0083-OA) entered on November 12, 2021, together with a motion for leave to file the appeal out of time.

Upon consideration and relief, this Court refuses Petitioner's motion for leave to file the appeal out of time. Under West Virginia Code § 51-11-4(b)(3), this Court has jurisdiction over "[f]inal judgments or orders of a circuit court concerning guardianship or conservatorship matters, entered after June 30, 2022." The Circuit Court of Kanawha County entered the order Petitioner seeks to appeal on November 12, 2021. Accordingly, this Court lacks jurisdiction over this appeal.

App. 2

It is ordered that this matter is dismissed from the active docket of this Court and that Petitioner's filing fee be returned.

A True Copy Attest: /s/ Edythe Nash Gaiser [SEAL]
Clerk of Court

IN THE CIRCUIT COURT OF
KANAWHA COUNTY, WEST VIRGINIA
IN RE: SHANNA L. ALLEN,
CASE NUMBER: 21-AF-3
The Honorable Carrie Webster

ORDER APPOINTING GUARDIAN AD LITEM
and DIRECTING MENTAL HYGIENE
COMMISSIONER TO CONDUCT
EVIDENTIARY HEARING ON MATTERS
ALLEGED IN PETITION FOR FINANCIAL
EXPLOITATION PROTECTIVE ORDER

(Filed Aug. 20, 2021)

On or about July 26, 2021, a *Petition for Temporary Financial Exploitation Protective Order* was received by the Magistrate Court of Kanawha County on behalf of Shanna L. Allen by Stuart Barnes, the brother of Shanna L. Allen who lives in Los Angeles, California. The Magistrate Court failed to conduct a hearing on said Petition within the mandated time limits nor was the Petition served upon the named respondents.¹ The matter was transferred to the Circuit Court and assigned to the undersigned judge pursuant to Code §55-7J-1 on July 28, 2021.

¹ The Court directs the Magistrate Clerk and Chief Magistrate to investigate why the petition was not heard, processed, and served in accordance with the applicable laws/rules governing the same and to provide the undersigned judge with a written report **NO LATER than AUGUST 30, 2021**. Upon inspection of the report, the Court will determine whether further action and/or training is necessary.

App. 4

Due to multiple issues raised by the Petition, including the absence of Petitioner's verified signature on the Petition, and concerns about procedural irregularities, the Circuit Court delayed entry of any order and consulted with the Mental Hygiene Commissioner and Clerk's office. On August 20, 2021, the Circuit Court entered an *Order Granting Temporary Financial Exploitation Protective Order* and directed the Clerk to have the *Temporary Order and Petition for Temporary Exploitation Protection Order*, along with the instant Order be served upon the parties at the same time.

The Court notes that the Petition *alleges* the Petitioner (Shanna Allen) is a protected person and incapacitated adult but there are no court documents reflecting the same. Due to the nature of the allegations, the Court anticipated that a Guardianship case may be filed in this matter, and believes it is in the best interests of the Petitioner to appoint a Guardian Ad Litem and direct West Virginia Department of Health and Human Resources, Division of Adult Protection Services, to investigate issues alleged in said Petition. The Court further notes and finds that Guardianship matters, and Financial Exploitation of protected persons are inextricably connected, and that the underlying information from the guardianship proceeding may be necessary background information for the financial exploitation proceeding and vice versa.

Accordingly, it is hereby **ORDERED** that this matter be transferred to Mental Hygiene for an evidentiary hearing that shall be held on Tuesday, the 14th day of September 2021, at 10:30 a.m., before Virginia

App. 5

Ann Grottendieck, Mental Hygiene Commissioner, who shall hear testimony and evidence and make findings and recommendations and prepare a proposed Order in these matters and tender the same to the undersign for consideration and entry.

It is unclear as to whether Shanna L. Allen has previously been deemed a protected person and meets the definition of a protected person under W.Va. Code §44A-1-4. Based upon the allegations in the Petition, and the fact that the Petitioner on behalf of Ms. Allen lives in California, the Court finds that it is proper to appoint a Guardian Ad Litem to represent the interests of Shanna L. Allen as this matter, and possibly the guardianship proceeding, are litigated and hereby **ORDERED** that Edward L. Bullman, 607 Ohio Avenue, Charleston, West Virginia 25302, (304) 344-5692, a duly licensed and qualified attorney, shall be appointed as guardian ad litem to represent the interests of Shanna L. Allen, an alleged protected person in this matter.

The guardian ad litem shall make prompt investigation and review of these matters and make recommendations to the Court through the mental hygiene commissioner regarding the allegations in the financial exploitation matter and whether the requested relief is just and proper, no later than three (3) days before the hearing.

The Court also directs APS to investigate, including an inspection of Petitioner's residence, and submit

App. 6

a report to the Mental Hygiene Commissioner no later than three (3) days before the hearing.

The Petitioner and the Respondent should be prepared to present all evidence by witness testimony and/or documentation at the hearing. The hearing will be held even if the opposing party/parties fail to appear.

It is **FURTHER ORDERED** that the Circuit Clerk shall send a certified copy of *this Order*, the *Petition for Temporary Financial Exploitation Protective Order*, and *Order Granting Temporary Financial Exploitation Protective Order* to the GAL, and the other parties/persons as follows:

Shanna L. Allen, 1204 Grant Street, Charleston, West Virginia 25302 (*via mail and personal service*)

Stuart Barnes, 3750 Jasmine Avenue, #203, Los Angeles, California 90034 (via mail and email, if available)

Shawna A. Allen, 1519 Piedmont Road, Charleston, West Virginia 25311, (via mail and personal service)

Edward L. Bullman, 607 Ohio Avenue, Charleston, West Virginia 25302 and via email at ebullmanlaw@gmail.com; and

Brian E. Phillips, WVDHHR (APS) via email at Brian.E.Phillips@wv.gov

A copy of THIS Order shall also be sent to the Magistrate Clerk and Chief Magistrate Judge.

App. 7

Enter this 20th day of August 2021.

/s/ Carrie Webster

The Honorable Carrie Webster
Kanawha County Circuit Judge

**IN THE CIRCUIT COURT OF
KANAWHA COUNTY, WEST VIRGINIA**
IN RE: SHANNA L. ALLEN,
a Protected Person
CASE NUMBERS: 21-G-83 and
21-AF-3
The Honorable Carrie Webster

FINDINGS AND RECOMMENDATIONS
OF MENTAL HYGIENE COMMISSIONER
ORDER OF THE COURT DENYING
PERMANENT FINANCIAL EXPLOITATION
PROTECTIVE ORDER AND DISMISSING
TEMPORARY FINANCIAL
EXPLOITATION PROTECTIVE ORDER

(Filed Feb. 8, 2022)

Pursuant to the Order of this Court, August 20, 2021, a hearing convened before Virginia Ann Grotendieck, Mental Hygiene Commissioner, for the purposes of review of the Order Granting Temporary Financial Exploitation Order by the Circuit Court of Kanawha County. The hearing was conducted via Microsoft Teams videoconference.

The following parties participated in this hearing by videoconference: Petitioner, Shanna L. Allen, a protected person, appeared in person and by her appointed Guardian ad litem, Edward Bullman; Shanna L. Allen's Next Friend and brother, Stuart Barnes, appeared in person and by counsel Paige Vagnetti; Respondent, and proposed guardian and conservator,

App. 9

Shawn A. Allen appeared in person and by counsel, Jessica Carter; West Virginia Department of Health and Human Resources (hereinafter WVDHHR), appeared by Dwayne Combs and Jennifer Bryant; Kanawha County Sheriff appeared by Barry McCloud and David Johnson; Shane Allen, sister of the protected person (as well as the sister of Shawn Allen and Stuart Barnes) also appeared for this hearing.

Paige Vagnetti called Stuart Barnes Next Friend of Petitioner. Mr. Barnes was sworn, testified and was subject to cross examination. Mr. Barnes testified that he filed this action because Shanna Allen told him that Shawn Allen was spending her money; because he felt Shawn is not investing Shanna's settlement money to maximize her income; because Shawn Allen was making repairs to the home Shanna lives in using only Shanna's money; and for various reasons that were not financial. Mr. Barnes could only identify one example of Shawn Allen intentionally misappropriating or misusing funds belonging to Shanna Allen. He testified that Shawn and Shanna went to the grocery store and had two carts, when they checked out they put all of the items on the conveyor belt and Shawn paid for all of them with Shanna's money. Mr. Barnes could not identify if this was one occasion or many occasions. Mr. Barnes could not identify whether it was intentional or a mistake and he could not state whether Shawn paid money to Shanna or into Shanna's account after this occurred. Ms. Vagnetti also called Respondent, Shawn Allen. Ms. Allen testified that she had not placed Shanna Allen's settlement money in a trust because it

App. 10

was settlement money rather than funds inherited from their mother. Ms. Allen further testified that at the settlement hearing there was "someone like Mr. Bullman," later identified as a guardian ad litem for Shanna Allen in that proceeding, who specifically cautioned her about investments, therefore, she left the money in a savings account, just as she did her share of the settlement proceeds. She further stated that Shanna pays for utilities at the home, taxes on the home, and repairs to the home, as well as her own groceries, household supplies and personal items. Ms. Allen testified that Shanna receives social security income which pays for all but the repairs to the home including new appliances when they are needed. Ms. Allen also testified that Shanna goes on vacation with her and their sister Shane and they split all accommodations three ways and when they eat out at restaurants they all take turns paying for the meal. She stated that this make Shanna feel included as a part of the family. Shawn Allen also testified that at Christmas, Shanna gets an allotment to buy gifts for the family, but that she does not otherwise pay for gifts for others. Counsel for Petitioner's Next Friend called no further witness and rested her case. No other party called any witnesses.

The Court called Dwayne Combs of WVDHHR. Because Mr. Barnes' Petition contained many other allegations painting a picture of Shanna Allen being medically compromised without appropriate medical care, living in squalor with pests throughout her home and the home falling down around her, WDVHHR was

App. 11

ordered to investigate. Dwayne Combs visited the home unannounced and testified that he found Ms. Allen's home to be old but well appointed, clean and tidy. He observed the home to be nicely and colorfully decorated with many pictures of her family. Mr. Combs testified that Ms. Allen is very proud of her family and enjoyed showing him the photos. He stated that there was some dust in the living room due to repair of the plaster ceiling which was in progress. Overall, the home was lived in, not prepared for inspection. For instance, he stated there were folded clothes on the bed waiting to be put away. Mr. Combs further reported that there was sufficient and appropriate food in the home. He stated that there looked to be homemade meals in the refrigerator as well as frozen dinners and canned goods. Mr. Combs testified that Shanna Allen was appropriate and that they had a very pleasant conversation. He stated that it was obvious that she has some intellectual deficits, however, she was very conversant and laughed at his jokes. Mr. Combs did not find any evidence of abuse, neglect, or exploitation. He stated that he only conducted the initial emergency visit and that Jennifer Bryant of WVDHHR followed up as the case worker after his visit.

Guardian ad Litem, Edward Bullman prepared an Answer and Report of Guardian ad Litem which has been filed with the Court and is a part of this record. Mr. Bullman spoke to his findings.

Petitioners Next Friend did not request a Permanent Protective Order, rather he requested that through the guardianship proceeding it be ordered

App. 12

that he be provided with specific Reports, Accountings, bank statements, medical records, and the ability to make suggestions as to Shanna Allen's personal, medical, financial, and legal affairs.

Based upon the evidence presented the argument and proffer of counsel upon due consideration and for good cause shown, the Mental Hygiene Commissioner makes the following FINDINGS and RECOMMENDATIONS:

1. Petitioner, Shanna L. Allen is an adult person, living in Kanawha County, West Virginia.
2. Petitioner has been diagnosed with intellectual disabilities and meets the definition of a protected person pursuant to W.Va. Code §44A-1-1 et seq.
3. Petitioner's Next friend, and brother, Stuart Barnes filed this action alleging acts against Respondent, Shawn Allen, that constitute financial exploitation and personal/physical/medical neglect.
4. The investigation of WVDHHR, the investigation of the Guardian ad Litem, and the testimony revealed that Shawn Allen is providing Shanna Allen with as much independence as she is able to enjoy; that Shawn Allen has managed Shanna Allen's medical care appropriately; that Shawn Allen believed she was supposed to leave Shanna Allen's settlement proceeds in a savings account based upon the cautionary Instructions at the summary proceeding; that COVID has impacted Shanna's

App. 13

activities but that she is still able to participate in church activities most days of the week; and due to Shawn Allen's care, supervision and diligence, Shanna Allen is a happy well-adjusted individual who is not wanting in any aspect of her life.

5. It is recommended that the Petition for a Permanent Protective Order be denied.
6. It is recommended that the Temporary Protective Order be dismissed, and all funds frozen by that Order are unfrozen.
7. It is recommended that Stuart Barnes pay the Guardian Ad Litem fees as to this Financial Exploitation matter for the following reasons: Mr. Barnes offered to pay these fees prior to the hearing in this matter; Mr. Barnes agreed that Shawn Allen be appointed guardian and conservator; Mr. Barnes requested that matters be ordered in the guardianship proceeding rather than entering a permanent protective order; and Mr. Barnes, through counsel, agreed to pay these fees after the hearing on this matter had concluded. Therefore, it is recommended that Mr. Bullman prepare the appropriate documents and pleadings to be paid by Mr. Barnes for his work in the financial exploitation matter.

WHEREFORE, based upon the foregoing findings and recommendations, the Court hereby ORDERS as follows:

1. The request for Permanent Financial Exploitation Protective Order is DENIED;

App. 14

2. The Temporary Financial Exploitation Protection Order of the Circuit Court of Kanawha County is hereby DISMISSED;
3. It is ORDERED that the Guardian ad Litem's participation in these proceedings is necessary and in the best interest of the protected person, and the Court ORDERS that Mr. Bullman prepare the appropriate documents and pleadings to be paid by Mr. Barnes.

It is **FURTHER ORDERED** that a certified copy of this Order be sent to all parties and counsel of record.

Enter this 7 day of January [/s/ [Illegible]], 2022.

/s/ Carrie Webster

The Honorable Carrie Webster
Kanawha County Circuit Judge

Recommended by:

/s/ Virginia Ann Grottendieck

Virginia Ann Grottendieck
Mental Hygiene Commissioner

**IN THE CIRCUIT COURT OF KANAWHA
COUNTY, WEST VIRGINIA**

Case No. 2021-G-20-0083-OA

IN RE: AN ALLEGED PROTECTED PERSON

Shanna L Allen

**ORDER OF APPOINTMENT
OF
GUARDIAN AND/OR CONSERVATOR
[W. Va. Code: § 44A-2-13]**

(Filed Nov. 12, 2021)

This matter was heard on 11/04/2021 before the Honorable Virginia Ann Grottendieck, Mental Hygiene Commissioner/Judge of this Court pursuant to the provisions of *West Virginia Code § 44A-2-9*;

Based upon the aforementioned hearing the Commissioner/Judge issued the following, the contents of which are incorporated herein by reference as if fully set forth herein:

Findings find Recommendations of the Mental Hygiene Commissioner.

The Court hereby accepts and adopts the entire Findings and Recommendations, without amendment of the Mental Hygiene Commissioner, which constitutes the basis of this Order.

Attached are the detailed exceptions to the findings and recommendations.

Based upon the foregoing action, and the findings, recommendations and/or conclusions adopted herein as aforesaid, the Court hereby finds and determines that Shanna L Allen, the individual alleged to be a protected person, is a “protected person” and meets the definition of a “protected person” under *West Virginia Code §44A-1-4* because of mental impairment due to other causes.

The Court hereby **ORDERS** and makes the following appointment(s):

Guardian: Shawn A. Allen as a full guardian

Co-Guardian: _____ as a _____

Conservator: Shawn A. Allen as a full conservator

Co-Conservator: _____ as a _____

[applicable only if checked] Because the Court finds that the Protected Person is unable to handle his or her own affairs due, in whole or part, to mental illness or insanity, then this Protected Person is to be reported by the Mental Hygiene Commissioner of this county who held the underlying hearings in this action, if applicable, and otherwise by this Court, to the Superintendent of the West Virginia State Police for inclusion in the central state mental health registry as required by *West Virginia Code § 61-7A-3*.

App. 17

If this Protected Person is to be reported, the Court further finds that:

1. The current address of the Protected Person is believed to be:

Address Line 1: 3204 Grant Street

Address Line 2:

City: Charleston State: West Virginia,
and

2. The date of birth of the Protected Person is believed to be 02/14/1968 -OR- Unknown, and
3. The place of birth of the Protected Person is believed to be West Virginia, and
4. The gender of the Protected Person is believed to be female, and
5. The race of the Protected Person is believed to be Black or African American, and
6. The height of the Protected Person is believed to be 5 feet, 8 inches, and
7. The natural eye color of the Protected Person is believed to be brown, and
8. The social security number of the Protected Person is believed to be _____
-OR- Unknown.

If a "limited conservator" is appointed under the terms of this Order, said limited conservator shall be limited to the following responsibilities in managing

App. 18

the estate and financial affairs of the Protected Person and shall extend to no other area: n/a

Check here if the section above is continued on the last page of the order.

If a "limited guardian" is appointed under the terms of this Order, said limited guardian shall be limited to the following responsibilities in the personal affairs of the Protected Person and shall extend to no other area: n/a

Check here if the section above is continued on the last page of the order.

A guardian and/or conservator, appointed herein without limitation, shall discharge all of the duties and assume all of the responsibilities set forth under *West Virginia Code § 44A-3-1, et seq*, other provisions of Chapter 44A as may be applicable, and any other duties and responsibilities more particularly set forth in this Order.

The guardian/limited guardian/co-guardian/limited co-guardian is hereby granted the following specific areas of protection and assistance: all areas of protection and assistance

Check here if the section above is continued on the last page of the order.

The conservator/limited conservator/co-conservator/limited co-conservator is hereby granted the following specific areas of management and assistance: all areas of protection and assistance

Check here if the section above is continued on the last page of the order.

Upon consideration of the Statement of Financial Resources [GC Form 6] hereinbefore filed, the requirements of West Virginia Code § 44A-1-9 and arguments made during the hearing, it is hereby ORDERED that:

**Bond for the conservator/limited conservator is set and shall be posted by the conservator/limited conservator or each co-conservator/limited co-conservator in the following amount: \$5,000.00*

**Bond for the guardian/limited guardian or each co-guardian/limited co-guardian is hereby waived.*

It is further **ORDERED** that the form of the Bond(s) herein required shall be one of the following types [*choose all that apply*];

Cash Bond Property Bond Corporate Surety
 Private Surety Personal Recognizance

The Court notes that bond, as required above, has been posted as required by *West Virginia Code § 44A-1-9 and 44A-2-13(a)(2)*, prior to the issuance of this order as follows in the following amount(s) and form(s):
Five Thousand Dollar (\$5,000.00) Cash Bond

Check here if the section above is continued on the last page of the order.

It is ORDERED that the mandatory education required by *West Virginia Code §44A-2-10* has been completed *prior to the entry of this Order of Appointment as required under West Virginia, Code § 44A-2-13(a)(3)*. *Attached is the required Affidavit - see West Virginia Code § 44A-1-10(b)*.

The Court notes that the guardian and/or conservator has subscribed to and filed an oath as required by *West Virginia Code § 44A-2-13*, prior to the issuance of this order.

It is further **ORDERED** that: Shawn A. Allen shall provide the Reports of Guardian, Inventory, and Accountings of Conservator to the statutorily identified interested parties as set forth in W.Va. Code

sections 44A-3-8, and 44A-3-9 respectively. Ms. Allen's estate contains sufficient funds to compensate the attorney appointed to represent her in this matter. Therefore, Mr. Bullman shall prepare the appropriate pleadings and documents to be paid by the estate.

Check here if the section above is continued on the last page of the order.

The Court hereby refers this matter pursuant to *West Virginia Code § 44A-3-11* to the following:

A. The following Fiduciary Commissioner of this County, for both reports and accountings, who in settlement of the accountings of a conservator is entitled to *the following fees set by this court*.

\$100.00 per hour not to exceed a maximum of \$300.00 per accounting.

Name: Kanawha County Fiduciary Supervisor

Phone No: (304) 337-0151

E-mail: fiduciary@kanawha.us

Address One: 407 Virginia Street East

Address Two: _____

City: Charleston State: WV Zip: 25301

All compensation and expenses of the Fiduciary Commissioner are required by *West Virginia Code § 44A-3-11* to be allowed and approved only by the circuit court in accordance with *West Virginia Code § 44-1-13*.

App. 22

B. "Other person" identified below for _____, whom the Court deems appropriate to examine and review the same, and act to fulfill the statutory duties required under *West Virginia Code § 44A-2-1(f)* and *44A-3-11*.

Name: _____

Phone No: _____

E-mail: _____

Address One: _____

Address Two: _____

City: _____ State: _____ Zip: _____

The Court establishes the following fee for reviewing a report (to be paid from the Enforcement of Guardianship and Conservatorship Act Fund):

_____ per hour not to exceed a maximum of _____ per report.

The referee above shall review all referred reports and/or accountings semi-annually and take such other actions as are permitted and required by law. The conservator shall likewise file a true copy of the bond posted and approved by the Court with said individual(s).

Pursuant to the terms of *West Virginia Code §44A-3-11*, the guardian or conservator appointed herein shall file all required reports and/or accountings with the Circuit Clerk of this County and any individual to whom this matter has been referred hereinabove within 6 months of the date of this appointment and

App. 23

thereafter as required by law or further order of this Court.

Pursuant to the terms of *West Virginia Code §44A-3-8(a)* and *(b)*, if a conservator has been appointed under the terms of this Order, it is hereby ORDERED the such Conservator shall, within sixty (60) days of the entry of this Order, file with the Court and with any individual named herein to whom accountings have been referred, as the case may be, the inventory required under subsection (a) and shall mail copies thereof to the parties entitled thereto as required by subsection (b).

Pursuant to *West Virginia Code §44A-2-13(c)*, the guardian and/or conservator ***SHALL***, within FOURTEEN (14) DAYS OF THE DATE OF THE ENTRY OF THIS ORDER, mail a copy of this Order of Appointment, together with the statement of the right to appeal for a modification or termination which is annexed hereto, to the Protected Person and to all individuals and entities who were given notice of the Petition filed in this cause.

The Clerk of this Court shall enter the foregoing **ORDER** as of the date written below and shall transmit attested copies to counsel of record for the parties, to any guardian and/or conservator appointed by this Order, to the Petitioner, to the fiduciary Commissioner or other named person to whom this matter has been referred herein, and to the Mental Hygiene Commissioner in this county who held the underlying hearings in this action if not held by the Court.

App. 24

Further, pursuant to *West Virginia Code § 44A-2-13*, the Clerk of this Court shall mail the required Notice of Appointment for recordation in the office of the clerk of the county commission of this county within 10 days of entry of this Order.

ENTER this date: November 12, 2021

/s/ Maryclaire Akers
JUDGE MARYCLAIRE AKERS
OF THE CIRCUIT COURT
OF WEST VIRGINIA

**STATEMENT OF RIGHTS TO APPEAL FOR
A MODIFICATION OR TERMINATION**

Pursuant to the provisions of *West Virginia Code § 44A-4-6*, and other applicable law, the Protected Person named herein, any guardian and/or conservator of the Protected Person, or any other “interested person” as defined by law, has the right to, and may, seek an appeal to the Circuit Court to modify or terminate the appointment(s) and/or the powers of the guardian and/or conservator appointed by this Order.

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on April 3, 2023, the following order was made and entered:

SCA EFiled: Apr 03 2023
04:04PM EDT
Transaction ID 69720847

In re S.A., a protected person

No. 23-185

ORDER

On March 10, 2023., the petitioner S.B., self-represented, submitted a notice of appeal. The notice of appeal purports to appeal an order of the Intermediate Court of Appeals entered on February 13, 2023. The February 13, 2023, order of the Intermediate Court of Appeals refused petitioner's motion to file the notice of appeal out of time stating they did not have jurisdiction over the appeal because the final order of the circuit court was entered before July 1, 2022. West Virginia Code § 51-11.4(b)(3) states the Intermediate Court of Appeals has jurisdiction over "final judgments or orders of a circuit court concerning guardianship or conservatorship matters, entered after June 30, 2022, pursuant to §44A-1-1 *et seq.* of this code." The Court finds no error in the February 13, 2023, order.

To the extent petitioner raises issues from the November 12, 2021, order of the circuit court, they are not

App. 26

timely. Therefore, a scheduling order is not entered, and this matter is dismissed.

A True Copy Attest: /s/ Edythe Nash Gaiser [SEAL]
Clerk of Court
