

Guardianships

Alternatives 2022

ACTION GROUP 2: Joining Our Struggle for Justice
to Other Struggles of Diverse Marginalized Groups

Day One, November 2, 2022

James B. (Jim) Gottstein, Esq.

Guardianship/Conservatorship

- Over Property or Person or both
- Full or Limited
- Alaska—Conservatorship for property, Guardianship for Person
- California—Conservatorship for both property and person.
- New York—Guardianship for both property and person

Standards (on paper)

- Supposed to be Limited to When Absolutely Necessary
 - Not True in California
 - Over Person: "unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter." California Probate Code § 1801(a)
 - Over Property: "substantially unable to manage his or her own financial resources or resist fraud or undue influence." California Probate Code, §1801(b)
- Supposed to Include Ward's Participation to the Maximum Extent Possible
 - Supported Decision-making
- Supposed To Be for Only As Long As Necessary

In Practice

- Diagnosed Children, Especially Foster (“Age Out”)
- Family Member → Public Guardian
- Used to Circumvent Commitment and Forced Drugging “Protections”
 - Some States: Considered Voluntary because Guardian Has Been Given Right to Decide

Bill Bigley

(The Zyprexa Papers)

- Me: Proved drugs will shorten his life.
- Guardian: "We have to look at the quality of his life . . . quality of life may even be more important than the quantity."
- Judge "Even if the medication shortens Bigley's lifespan, the Court would authorize the administration of the medication because Bigley is not well now and he is getting worse."

Natural Allies

- Independent Living Centers
 - MindFreedom/David Italiano
 - Roads to Freedom Independent Living Center
- Center for Estate Administration Reform (CEAR)
 - David Italiano
- The Center for Self-Determination