

Peffer argues own case for mother's return

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SMETHPORT—Holly Peffer presented exhibits and arguments, at a hearing in the McKean County Court House small court room Friday afternoon, and pleaded for a ruling that would get her mother, Rita Denmark, out of a Florida nursing home and back to Bradford to live, in effect ending her brother's guardianship over their mother.

Attorney Ronald Langella, appearing for his client Etta Getty (who did not attend), lodged a continuing objection to most of what Peffer was presenting to the extent it relied on facts not presented before White's earlier ruling, and later declared that the judge lacks the authority to confer with a Florida judge concerning a procedural puzzle at the heart of the case. Getty is a Florida guardian appointed by a Florida court,

For his part, Senior Visiting Judge H. William White listened closely, patiently allowed for the difficulties faced by a party proceeding pro se (serving as her own attorney). His interest in the case and the legal issues it raises was evident throughout the hearing, which lasted from 2:30 p.m. until nearly time to close the Court House at 4:30.

Technically, the hearing had been called so White could hear arguments on two sets of Rule 7 exceptions, in which she asserted her disagreement with findings of fact the judge had issued on April 7, and with other orders and rulings.

The matter at hand stems from a battle over who should be guardian of Rita Denmark. Peffer had given durable power of attorney, by her mother and in the summer of 2007 had begun the process of obtaining guardianship, at the suggestion of an Office of Aging staff person. When he heard of this, Florida resident William Denmark secured help from another sister to bring their mother to Florida, where William Denmark quickly got a Florida guardian appointed for her. Then she was placed in a nursing home.

As Peffer got her presentation underway Friday, White pointed out that he was not there to give her legal advice. Still, he instructed her

in presenting exhibits and showing them to opposing counsel, and at one point he had Langella read off citations from Peffer's list, for the court stenographer to enter into the record.

White stated repeatedly that the hearing was to hear argument that would lead to the court's decision as to whether it had erred in a ruling based on a June hearing, and should reverse itself, or whether it should extend its consideration of what was before the court then.

New evidence could not be considered, for ruling on the matter before the court, White said. But he allowed Peffer to present what she had brought with her, including printed documents and a number of large display boards, some showing time lines of the events relating to the guardianship.

The judge said he would examine the items being presented for consideration, and would take into consideration those that he properly could, so as to decide "whether I was wrong."

Meanwhile, for the record, White had Peffer summarize the exhibits or items she was offering for the court's consideration, and state what salient points each contained. He had all the exhibits numbered for identification.

After about an hour of this, Peffer asked for a few minutes' break, and White recessed the hearing briefly. Reconvening at about 3:50 p.m., he directed Peffer to wrap things up. She did so, insisting that in what Langella had filed in response to her exceptions, he had provided answers to only two, and those replies were without merit; and he had ignored the rest, so they should be accepted.

Langella argued that Peffer's mother had had counsel, and that it was on that counsel's request that Getty was appointed guardian.

At one point White mused about some the murky points considering how a court in Florida had come to accept jurisdiction and why it had handled things as it did. He suggested that it would be practical for the judges to communicate, "me picking up the phone and conferring with the Florida judge."

Langella stated that the court does not have the authority to enter into such an inter-court discussion. He insisted that Getty had been appointed properly and was merely doing her duty as a lawfully appointed guardian there.

Peffer's pleadings have argued that fraud was committed in order to get the matter out of McKean County and under the jurisdiction of a Florida Court; that because there had been a guardianship action commenced in McKean County, the Florida Court should not have agreed to hear a petition for guardianship in Florida. Besides, Peffer said, the Florida court assumed or was told Mrs. Denmark was domiciled there, when instead she had been taken there in a ploy to derail the McKean County guardianship petition.

Peffer conceded that she had cooperated with Getty, and complied when asked to transfer \$242,452.50 of Mrs. Denmark's money from Hamlin Bank to one in Florida, and send jewelry to Getty for appraisal. Peffer said this was because Getty had said it would be the quickest way to get Peffer's mother back to Bradford.

Peffer also had harsh words for Bradford attorney Mark Hollenbeck, claiming he had been engaged to represent her mother's interests but had worked against those interests.

Judge White stated that it is a very serious thing to suggest that an attorney has failed to carry out his duty toward his client, because "the courts, our system, we depend on being able to know that attorneys represent their clients faithfully."

The judge promised to rule in a week, after studying that which he properly could consider from Peffer's presentation, the arguments just made and other arguments presented during that week.