

IN RE WINIFRED M. BRADSTREET

Submitted on Briefs May 17, 2007
Decided June 19, 2007

Panel: SAUFLEY, C.J., and CLIFFORD, CALKINS, LEVY, SILVER, and MEAD, JJ.

MEMORANDUM OF DECISION

Stephen E. Bradstreet and Bette A. Brown appeal from the judgment of the Aroostook County Probate Court (*Dunleavy, J.*) appointing them as guardians for their mother, Winifred M. Bradstreet; appointing the Department of Health and Human Services as Winifred's conservator; denying their motion to dismiss their own petition for guardianship and conservatorship of Winifred; awarding fees to Winifred's guardian ad litem; and denying their ex parte motion seeking payment and accounting of a trust for which Winifred is the beneficiary. Contrary to Stephen and Bette's contentions, the court did not exceed its discretion in continuing to act in the matter despite having previously recused itself,¹ *see Estate of Dineen*, 1998 ME 268, ¶ 8, 721 A.2d 185, 188, nor did the court err in failing to

¹ We note with disapproval the Probate Court's issuance of an order of recusal that cites the existence of an express conflict when none in fact existed.

transfer the matter to the Probate Court of another county, *see* 4 M.R.S. § 307 (2006). In addition, we discern no error in the court's provision of notice of the final hearing date to the parties, nor any abuse of discretion in the court's denial of Stephen and Bette's motion to continue the hearing on that basis. *See* M.R. Prob. P. 40(a)(2); *Fox Island Granite Co. v. Am. Granite Mfrs., Inc.*, 2006 ME 14, ¶ 4, 890 A.2d 700, 702. Finally, the court's guardianship and conservatorship appointments are supported by sufficient competent evidence, and the record contains no evidence of any improper bias on the part of the court. *See* 18-A M.R.S. §§ 5-304(b), 5-401(2) (2006); *Estate of Gonzalez*, 2004 ME 109, ¶ 7, 855 A.2d 1146, 1149.

The entry is:

Judgment affirmed.

For appellant:

Stephen Bradstreet
P.O. Box 46
Sherman Mills, ME 04776

Attorneys for appellee:

Stephen D. Nelson, Esq.
P.O. Box 804 - 35 Market Square
Houlton, ME 04730

Guardian *ad litem*

Richard C. Cleary, Esq.
P.O. Box 9
Houlton, ME 04730

Party-in-Interest:

Carmen L. Coulombe, Asst. Atty. General
6 State House Station
Augusta, ME 04333-0006