

THE HIGH COURT

WARDS OF COURT

[2024] IEHC 629

[WOC 0060]

IN THE MATTER OF K.K., A WARD OF COURT AND IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 55 OF THE ASSISTED DECISION-MAKING (CAPACITY) ACT 2015 (AS AMENDED)

RESPONDENT

Ex tempore ruling of Mr. Justice Mark Heslin delivered on the 31st day of October 2024

Welcome

1. As I did at the very outset, I want to extend a very warm welcome to Ms. K, and, indeed, to her boyfriend, R, and brother, J, who have taken the trouble to come to court today.

2. This is a decision about Ms. K leaving wardship and I will refer to her as “the respondent” for the purposes of this ruling.

The 2015 Act

3. Today’s application is brought under s. 55 of the Assisted Decision Making Capacity Act of 2015 (“the 2015 Act”).

The Court’s role

4. The job which the court has to do is to consider the evidence, and that evidence is in the form of affidavits and exhibits. Affidavits are documents containing facts which are sworn to be correct and can refer to and attach other material. This evidence tells a story.

5. In particular, a story about all the assessment of the respondent’s capacity and the efforts made to ensure that Ms. K’s voice has been heard.

6. Having considered the evidence, this Court has to make a ‘declaration’, or decision.

Three alternatives

7. There are a range of options depending on what the evidence supports i.e. either that (i) someone does not lack capacity; or (ii) lacks capacity unless the assistance of a suitable person as co-decision-maker can be made available; or (iii) lacks capacity, even with such assistance.

Certain facts

8. As Ms. Duffy (who is a solicitor with the General Solicitor's Office) has explained, the respondent was taken into wardship many years ago, in January 1988.

9. This was following injuries sustained in a road traffic accident, and the General Solicitor was appointed as committee of her estate.

10. The respondent is someone who lives in the family home, and her mother is committee of her person.

Grounding affidavit

11. The General Solicitor has brought this application today, and I took the opportunity to consider carefully, in advance, the affidavit 'grounding' the application. This is a document setting out relevant facts which, on 15 October, Ms. Duffy swore to be correct.

12. At paras. 5 and 6 of this grounding affidavit, Ms. Duffy 'avers' (i.e. swears to be correct) that correspondence was sent to the respondent about leaving wardship. This included a 'reader friendly leaflet'.

13. Correspondence was also sent to her mother, the joint committee.

Evidence of capacity

14. The evidence in relation to capacity comes from a report prepared by Dr. C. She is a consultant psychiatrist, and she met with the respondent on 28 August of this year.

15. I have been able to consider, with care, the entire of Dr. C's report, which is dated 20 September. Among other things, Dr. C states the following:-

"The respondent told me her mother is housebound and her brother looks after her needs, and she enjoys spending time with both. She was clear in her answers and views regarding being a ward of court. She said 'I do not think I need that anymore. I'm able to manage my own money and do things for myself. I know that the ward court is coming to an end and I would like to be more independent'.

Dr. C also says that the respondent *"remained aware of the purpose of my visit, which she had previously been told about by the social worker."*

16. On a functional assessment (i.e. looking at the ability to (i) understand; (ii) retain; (iii) use and weight relevant information; and (iv) communicate a decision) Dr. C came to the view that the respondent, Ms. K, does not lack capacity.

17. Dr. C states the following at section 9 on p. 6 of her report:-

"It is my clinical opinion that Ms. K does not lack capacity. She demonstrates decision-making abilities for areas of healthcare, welfare and finances, and she fully understands and weighs and balances information. Her ability to retain and communicate information is not impaired, and it seems within normal parameters."

Support available

18. Dr. C goes on to say:

"It is also my opinion that she may struggle to comprehend more sophisticated or complex financial matters or monetary transactions and, as such, she may benefit from availing of a decision-making assistant to support her with such decisions in the future, perhaps someone like her brother whom she trusts and has an excellent relationship with".

19. It is also clear from the evidence that all service issues were attended to. That is plain from Ms. Duffy's affidavit of service of 23 October 2024.

Ms. K's views

20. I note that, in that affidavit, Ms. K described herself as *"feeling like a new woman"* about being discharged from wardship and I am very glad to hear it.

Independent social worker

21. The applicant, i.e. the General Solicitor, also availed of the services of an independent social worker, Mr. E. He went out to meet with the respondent, Ms. K, on 12 June of this year and, among other things, the independent social worker, concludes:-

"K appears to be managing well on a day to day basis and, despite some health concerns, appears to be generally happy with life. She expressed a desire to be discharged from wardship and felt she did not require support or assistance in any area of her life. Her mother H and brother J felt likewise."

22. There is also a reference to J being a very dependable and the main source of support and advice for the respondent.

23. If I may say so, there is nothing more important than the relationships with those who love us and whom we love and it would appear that Ms. K is lucky enough to have a loving family to support her, when needed.

Declaration

24. To draw this ruling to a conclusion, given the evidence before me today, it is appropriate for the court to make the following declaration.

25. In light of s. 55(1)(a) of the 2015 Act, I am declaring that Ms. K does not lack capacity.

Orders

26. In light of that, it is appropriate to make certain orders and Ms. Duffy has very helpfully supplied a draft. The appropriate orders can be summarised as follows.

- To make a '**s. 27' order [Civil Law (Miscellaneous Provisions) Act 2008]**, which I granted at the outset, and that is to anonymise the respondent for privacy purposes,
- To hereby discharge Ms. K from wardship under **s. 55(2) of the 2015 Act**, and to remit her to the management of her own affairs. In other words, from now, Ms. K is 'captain' of her own 'ship'. She can make her own decisions,
- Therefore, it is also appropriate to order that she is entitled to receive the assets held on her behalf by the Accountant of the Court of Justice and in the committee account.
- I will also direct that the Accountant of the Court of Justice carry out the directions contained in the payment schedule.

I understand from Ms. Duffy that there is no application made for costs, and there will be no order for costs.

Congratulations

27. The final word must be simply to congratulate someone who is now out of wardship and free to make her own decisions in all areas.

28. It was a pleasure meeting you today, Ms. K, and I wish you the very best for the future.