

State of Minnesota

County of Winona

District Court
Probate Division

Judicial District: Third

Court File No. _____

Case Type: 14: Guardianship/Conservatorship

In Re: Guardianship of
 Conservatorship of

Petition for

Appointment of
 Guardian
 Conservator

David Austin Russell, Respondent

TO THE HONORABLE JUDGE OF THE DISTRICT COURT:

1. Petitioner's: Name: Karen Bunkowski
Address: 202 West 3rd St, Winona MN 55987
Telephone number: 507-457-6500
Interest in this matter: Supervisor, Winona County Community Services
2. Respondent's: Name: David Austin Russell
Address: 166 W 6th Street Apt #213, Winona, MN 55987
Telephone number: 507-312-9042
Age/Date of birth: 39 years/March 13, 1980.

and if the petition is granted, Respondent will be moved to: Respondent will remain in the custody of the Commissioner of Human Services at Annandale CBHH or other facility per provisional discharge.

3. The names and addresses of the Respondent's spouse and kindred are:
(See M.S. § 524.5-303(b) and § 524.5-102, subd. 7)

Relationship	Name	Address
a) Spouse (include an adult with whom Respondent has resided for six months or more):		
none		
b) Kindred: (adult children, parents and adult brothers and sisters; if none of these, then list the nearest adult kin)		
Mother	Cheryl Davis	570 Prairie Island Rd Winona, MN 55987 507-452-4998
Sister	Pamela Traver	Winona, MN 408-202-1892
Brother	Timothy Russell	Winona, MN 507-459-8629

- c) Administrator (if Respondent is in a hospital, VA, unit, nursing home, home care agency or other institution):

Annandale Community Behavioral Health Hospital	James Kelly	400 Annandale Blvd Annandale MN 55302
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		651-389-3854
d) Legal Representative (guardian/conservator, representative payee, trustee or custodian of property):		
None		
e) Persons nominated, proposed, or confirmed by prior order, as guardian or conservator (file applicable document with petition including a prior order, health care directive or related document):		
Proposed Guardian	Independent Management Services	101 21 st St SE Austin, MN 55912 507-437-6389 Fax 507-437-0977 info@imsofinn.com

4. An appointment of a Guardian of Respondent should be made because:
- A. A petition for appointment of a general guardian for Respondent has been filed, or will be filed in the immediate future with this court;
- B. Compliance with the procedures for appointment of a general guardian will likely result in substantial harm to the Respondent's health, safety, or welfare, and no other person appears to have the authority and the willingness to act on Respondent's behalf;
- C. The Respondent's needs for health, safety, or welfare are at risk because:
(Describe behavior and circumstances supporting this allegation):
The Respondent consistently refuses to apply for health care benefits that would allow him access to appropriate health care and inpatient medical treatment, as well as community supports to facilitate recovery of his mental illness. The Respondent has Medicare and a Medicare Supplement, however has 0 lifetime reserve days and 0 psychiatric days remaining on his policy. The Respondent is eligible for Medical Assistance with spenddown, however refuses to apply citing the county can pay for the entirety of his hospitalization. The Respondent bases his decision on the faulty perception that his civil commitment is illegal, and as a result he is victim to conspiracies, torture, and abuse, from state and local government agencies that also owe him thousands of dollars in withheld taxes.
The Respondent has not been able to remain stable for longer than a few months in the community. The Respondent has the following inpatient hospitalizations this commitment period alone:
- Winona Health, Winona MN 10/12/2016 -10/14/2016
University Medical Center-Mesabi, Hibbing, MN 10/14/2016-2/14/2017
Community Behavioral Health Hospital, Rochester 2/14/2017-6/6/2017
Community Behavioral Health Hospital, Rochester 1/8/2018-3/1/2018
Winona Health ED 3/2/2018
St. Mary's Hospital, Genereose 3/2/2018-3/22/2018
Community Behavioral Health Hospital, Rochester 3/22/2018-4/17/2018
Mayo Health System Albert Lea 12/23/2018-01/09/2019
Community Behavioral Health Hospital, Rochester 01/09/2019 -2/4/2019

Annandale Community Behavioral Health Hospital 4/30/2019 to present

Previous provisional discharge plans allowed the Respondent to return directly to his home. Respondent will likely require transitional rehabilitative housing such as a Minnesota Specialty Health System Intensive Residential Treatment Program to improve medication compliance and enhance stabilization due to the Respondent's impaired insight into his mental health. Such programs require medical assistance for treatment related costs; and

- D. no alternative less restrictive of civil rights and liberties exists, including the use of appropriate technological assistance.
- 5. The following powers are needed for a _____ Guardian to protect and supervise the person of the Respondent:
 - All of the rights and powers on behalf of the Ward under M.S. § 524.5-313(c) paragraphs 1, 2, 3, 4, 5, 6 and 7.
 - (If the Guardian is granted limited powers and duties, specify which powers and duties are vested in the Guardian by this Order.)*
 - Have custody of the Ward and establish the place of abode for the Ward within or without the State, M.S. § 524.5-313(c)(1);
 - Provide for the Ward's care, comfort and maintenance needs, M.S. § 524.5-313(c)(2);
 - Take reasonable care of the Ward's clothing, furniture, vehicles and other personal effects, M.S. § 524.5-313(c)(3);
 - Give any necessary consent to enable, or to withhold consent for, the Ward to receive necessary medical or other professional care, counsel, treatment or service, M.S. § 524.5-313(c)(4);
 - Approve or withhold approval of any contract, except for necessities, which the Ward may make or wish to make (*only given if no conservator is appointed*), M.S. § 524.5-313(c)(5);
 - Exercise supervision authority over the Ward, M.S. § 524.5-313(c)(6);
 - Apply on behalf of the Ward for any assistance, services, or benefits available to the Ward through any unit of government, M.S. § 524.5-313(c)(7);
 - (other) _____
 - All other powers, duties and responsibilities conferred on the Guardian under applicable law.
- 6. The name, age, address, and phone number of each proposed:
 - Guardian is:

Name:	<u>Independent Management Services</u>
Address:	<u>101 21st St SE</u>
	<u>Austin, MN 55912</u>
Telephone number:	<u>507-437-6389</u>
- 7. A. The proposed guardian Independent Management Services
(name)
 - has never been removed for cause from serving as a guardian or conservator.

8. The proposed guardian, Independent Management Services, is a professional guardian and a summary of the proposed guardian's educational background, relevant work experience, and other experience is as follows:
Proposed guardian is a non-profit agency that provides guardian and conservatorship services and has numerous clients.
9. The proposed guardian, Independent Management Services, has not applied for or held any professional licenses.
10. The proposed guardian, Independent Management Services has not been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriate, theft, or conversion.
11. The proposed guardian, Independent Management Services has not filed or received protection under bankruptcy laws.
12. The proposed guardian Independent Management Services does not have any outstanding civil monetary judgements.
13. The proposed guardian Independent Management Services does not have nor had an order for protection or harassment restraining order issued against them.
14. Each proposed Guardian and Conservator is the most suitable and best qualified among those available and willing to discharge the trust and is not excluded from appointment pursuant to M.S. § 524.5-309(c) or 524.5-413(d).

Petitioner respectfully requests the Court, without notice to interested persons, schedule a time and place for a preliminary hearing on this petition and, after the hearing, issue an order appointing Independent Management Services Guardian of Respondent with the powers and duties described in allegations numbered 5 above and an order appointing _____ as Conservator of Respondent, or as a limited agent of Respondent, with the powers and duties described in allegations numbered 7 above.

I declare under penalty of perjury that I have read the foregoing petition and, to the best of my knowledge or information, its representations are true; correct and complete. Minn. Stat. § 358.116.

Dated: 5/24/19

Karen L Bunkowski
Petitioner: Karen Bunkowski, Supervisor
Name of Petitioner's Attorney:
Name: Mr. Paul Ellison
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