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Juliette Fairley, Contributor

Author

Florida Judge Sued for Marital Alienation by Forlorn Wife

08/01/2017 05:02 pm ET | Updated 17 hours ago

Elizabeth Cunningham lives just 25 minutes from her husband David Napier Cunningham in Pensacola, Florida but she's not allowed to spend time with him. In fact, Ms. Cunningham hasn't seen her 65 year old husband in nearly three years because she was restricted from setting foot inside the assisted living facility where the former commercial real estate developer now resides. Ms. Cunningham blames her husband's guardian, a CPA who sued her for legal fees and won. Last week, Ms. Cunningham countersued in the U.S. District Court in the Northern District of Florida Pensacola Division after the Honorable Family Law Judge Darlene Dickey reportedly issued ex-parte stay away orders denying the forlorn wife not only contact with her husband but also face to face visits. "Even criminals in prison are allowed conjugal visits with their wives but because Mr. Cunningham is a ward of the state of Florida, he has no such right and neither does Elizabeth," said Dr. Sam Sugar, founder of the Americans Against Abusive Probate Guardianships (AAAPG) in Florida.

Ms. Cunningham is among a rising number of Americans seeking relief in federal courts nationwide from state guardianship-related proceedings that are alienating them from their loved ones. Other federal alienation suits include *Bush v Goodall* in Pennsylvania.

In most states, it is not uncommon for senior citizens, deemed incapacitated by a probate court, judge to lose their individual rights around residence, visitation, medical care, assets and property once they become a Ward of the state. However under federal law, experts claim that alienation of any kind, including spousal, parental and familial, is unconstitutional.

According to Ms. Cunningham's federal suit, Judge Dickey's stay away order was based on hearsay from the Guardian whom she claims has a financial interest in Mr. Cunningham's inheritance, portfolio of shopping centers and land situated in Cherokee County, Georgia.

"I miss my husband," said Ms. Cunningham. "Judge Dickey knew or should have known that this hearsay was false and fraudulent but instead she acted against my due process rights and my husband's rights under the 5th and 14th Amendment of the U.S. Constitution."



Whether it's husband, wife, sibling, uncle, aunt or parent, some 90% of family members report that the judge in their guardianship proceedings did not act in the best interest of the elderly, 80% suspected the judge was improperly influenced and 70% felt the retirement home did not act in their parent's best interests, according to an AAAPG study. Ms. Cunningham alleges that she was unduly influenced while under duress by an attorney to sign papers that would assign a professional guardian over her husband and his financial affairs.

"Under guardianship, my husband cannot vote, he is prohibited from driving a car and as a couple we cannot sell any of our properties without permission," Ms. Cunningham said. "The Guardian receives all the proceeds of any sale of property that my husband acquired through his hard work over the years. How can this be legal?"

Critics of elder guardianship say it's historical.

"Probate courts in America have a sordid history," said Dr. Sugar. "They were the primary mechanism for dealing with legal issues in the slave trade of African-Americans until slavery was abolished in 1865. These equity courts committed and continue to commit egregious abuse against the most vulnerable in society."

In 2017, however, court appointed guardianships do not discriminate based on race.

"My husband and I enjoyed our Pensacola home until this posse of court workers came into our lives," said Ms. Cunningham.

Ms. Cunningham is seeking damages in excess of \$7 million. She is representing herself.

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