

FILED

2015 AUG -3 AM 10: 04

JACQUELINE BRYANT
Clerk of Supreme Court
Electronically Filed
BY *Tracie K. Lindeman*
Aug 03 2015 11:07 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

GR15-00125
GUARD: ADEN HAILU (PR) 3 Pages
District Court Washoe County NV
08/03/2015 10:04 AM
\$2515
vmt/rmr

1 THE O'MARA LAW FIRM, P.C.
2 DAVID C. O'MARA, ESQ.
3 Nevada Bar No. 08599
311 East Liberty Street
4 Reno, Nevada 89501
Telephone: 775-323-1321
775-323-4082 (fax)
5 Attorneys for Fanuel Gebreyes

6
7 IN THE FAMILY DIVISION
8 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF WASHOE

* * *

10
11 IN THE MATTER OF THE GUARDIANSHIP)
OVER THE PERSON AND ESTATE OF,

Case No. GR15-00125

12 ADEN HAILU,

Dept. No. 12

13 An Adult Ward.

14
15 FANUEL GEBREYES,

16 Petitioner,

17 vs.

18 PRIME HEALTHCARE SERVICES, LLC,
19 dba ST, MARY'S REGIONAL MEDICAL
CENTER,

20 Respondent.
21

22 **NOTICE OF APPEAL FROM ORDER DENYING PETITION FOR ORDER**
23 **AUTHORIZING MEDICAL TREATMENT, RESTRAINING ORDER AND**
24 **PERMANENT INJUNCTION FILED ON JULY 30, 2015**

25 **NOTICE IS HEREBY GIVEN** that Petitioner and natural father of Aden Hailu, Fanuel
26 Gebreyes, appeals to the Supreme Court of the State of Nevada from the Order Denying Petition
27 for Order Authorizing Medical Treatment, Restraining Order and Permanent Injunction filed on
28 July 30, 2015.

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AFFIRMATION
(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document filed in the above referenced matter does not contain the social security number of any person.

DATED: August 3, 2015

THE O'MARA LAW FIRM, P.C.



DAVID C. O'MARA, ESQ

311 East Liberty Street
Reno, Nevada 89501
Telephone: 775-323-1321
Facsimile: 775-323-4082

Attorneys for Fanuel Gebreyes

1 **CERTIFICATE OF SERVICE**

2 I hereby certify under penalties of perjury that on this date I served a true and correct
3 copy of the foregoing document by:

4 _____ Depositing for mailing, in a sealed envelope, U.S.
Postage prepaid, at Reno, Nevada

5 X Personal delivery

6 _____ Facsimile

7 _____ Messenger Service

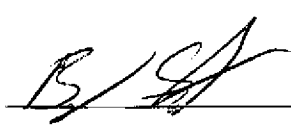
8 _____ Federal Express or other overnight delivery

9 X Electronically through the Court's ECF Systems

10 addressed as follows:

11 William Peterson, Esq.
12 Janine Prupas
13 Snell & Wilmer, LLP
14 50 W. Liberty Street, Ste. 510
15 Reno, NV 89501
Fax: 775.785.5441

16 DATED: August 3, 2015.



Handwritten signature in black ink, appearing to be 'B. J. A.', positioned above a horizontal line.

FILED

2015 AUG -3 AM 10:15

JACQUELINE BOYANT
CLERK OF THE COURT
BY: *[Signature]*
DEPUTY

GR15-00125
DC-09900068732-021
GUARD: ADEN HAILU (PR) 5 Pages
District Court 08/03/2015 10:15 AM
Washoe County NV

1 THE O'MARA LAW FIRM, P.C.
2 DAVID C. O'MARA, ESQ.
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7 IN THE FAMILY DIVISION
8 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF WASHOE

10 * * *

11 IN THE MATTER OF THE GUARDIANSHIP)
12 OVER THE PERSON AND ESTATE OF,

Case No. GR15-00125

13 ADEN HAILU,

Dept. No. 12

14 An Adult Ward.

CASE APPEAL STATEMENT

15 FANUEL GEBREYES,

16 Petitioner,

17 vs.

18 PRIME HEALTHCARE SERVICES, LLC,
19 dba ST, MARY'S REGIONAL MEDICAL
CENTER,

20 Respondent.

21
22 1. Name of appellant filing this Case Appeal Statement:
23 Fanuel Gebreyes, as Co-Guardian in the above-entitled action and
24 natural father of Aden Hailu.

25 2. Identify the judge issuing the decision, judgment, or
26 order appealed from: The Honorable Francis Doherty, Dept. 12,
27 Second Judicial District Court.
28

1 **3. Identify each appellant and the name and address of**
2 **counsel for each appellant:** Fanuel Gebreyes is the only appellant
3 in this case. Counsel for Appellant is David C. O'Mara, Esq., The
4 O'Mara Law Firm, P.C., 311 E. Liberty Street, Reno, NV 89501;
5 775.323.1321.

6 **4. Identify each respondent and the name and address of**
7 **appellate counsel, if known, for each respondent (if the name of**
8 **a respondent's appellate counsel is unknown, indicate as much and**
9 **provide the name and address of that respondent's trial counsel:**
10 Prime Healthcare Services, LLC, dba St. Mary's Regional Medical
11 Center is the only respondent in this case. Trial counsel for
12 Respondent was William E. Peterson and Janine C. Prupas, Snell &
13 Wilmer, L.L.P., 50 W. Liberty Street, Ste. 510, Reno, NV 89501;
14 775.785.5440. It is anticipated that the Snell & Wilmer law firm
15 will represent the respondent in this appeal.

16 **5. Indicate whether any attorney identified above in**
17 **response to question 3 or 4 is not licensed to practice law in**
18 **Nevada and, if so, whether the district court granted that attorney**
19 **permission to appear under SCR 42 (attach a copy of any district**
20 **court order granting such permission):** Both attorneys in questions
21 3 and 4 above are licensed to practice in Nevada.

22 **6. Indicate whether appellant was represented by appointed**
23 **or retained counsel in the District Court:** Appellant was
24 represented by retained counsel.

25 **7. Indicate whether appellant is represented by appointed**
26 **or retained counsel on appeal:** Appellant will be represented by
27 retained counsel on appeal.
28

1 8. **Indicate whether appellant was granted leave to proceed**
2 **in forma pauperis, and the date of entry of the District Court**
3 **order granting such leave:** No such order was requested or granted.

4 9. **Indicate the date the proceedings commenced in the**
5 **District Court (e.g., date complaint, indictment, information, or**
6 **petition was filed):** The Petition was filed on July 1, 2015.

7 **Provide a brief description of the nature of the action and**
8 **result in the District Court, including the type of judgment or**
9 **order being appealed and the relief granted by the District Court:**
10 Appeal sought to preclude Respondent from killing his child by
11 removing her from life sustaining machines. Appellant argues that
12 the child, Aden, is alive while Respondent argues that Aden is
13 dead. The district court denied Appellant's claims, including
14 injunctive relief.

15 10. **Indicate whether the case has previously been the**
16 **subject of an appeal to or original writ proceeding in the Supreme**
17 **Court and, if so, the caption and Supreme Court docket number of**
18 **the prior proceeding:** This case has not been subject to an appeal
19 or writ proceeding in the Supreme Court.

20 11. **Indicate whether this appeal involves child custody or**
21 **visitation:** This appeal does not involve child custody or
22 visitation of a minor child.

23 12. **If this is a civil case, indicate whether this appeal**
24 **involves the possibility of settlement:** This appeal deals with
25 life and death issues and thus is unlikely to settle.

26
27
28

AFFIRMATION

(Pursuant to NRS 239B.030)

1
2 The undersigned does hereby affirm that the preceding
3 document filed in the above referenced matter does not contain the
4 social security number of any person.
5

6 DATED: August 3, 2015

THE O'MARA LAW FIRM, P.C.

7
8 
9 _____
DAVID C. O'MARA, ESQ

10 311 East Liberty Street
11 Reno, Nevada 89501
12 Telephone: 775-323-1321
13 Facsimile: 775-323-4082

14 Attorneys for Fanuel Gebreyes
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CERTIFICATE OF SERVICE


I hereby certify under penalties of perjury that on this date I served a true and correct copy of the foregoing document by:

- Depositing for mailing, in a sealed envelope, U.S. Postage prepaid, at Reno, Nevada
- Personal delivery
- Facsimile
- Messenger Service
- Federal Express or other overnight delivery
- Electronically through the Court's ECF Systems

addressed as follows:

William Peterson, Esq.
Janine Prupas
Snell & Wilmer, LLP
50 W. Liberty Street, Ste. 510
Reno, NV 89501
Fax: 775.785.5441

DATED: August 3, 2015.



**SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA
COUNTY OF WASHOE**

Case History - GR15-00125

Case Description: GUARD: ADEN HAILU (PR)

Case Number: GR15-00125 Case Type: GUARDIANSHIP OF AN ADULT - Initially Filed On: 4/16/2015

Parties

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - FRANCES M. DOHERTY - D12	Active
ATTY - Ryan J. Earl, Esq. - 5292	Party ended on: 6/17/2015 12:00:00AM
ATTY - William E. Peterson, Esq. - 1528	Active
ATTY - William Michael O'Mara, Esq. - 837	Active
ATTY - David C. O'Mara, Esq. - 8599	Active
AWRD - ADEN HAILU - @1274929	Active
GRDN - FANUEL GEBREYES - @1274927	Active
GRDN - METSIHATE ASFAW - @1274928	Active
PETR - FANUEL GEBREYES - @1274927	Party ended on: 5/26/2015 12:00:00AM
PETR - METSIHATE ASFAW - @1274928	Party ended on: 5/26/2015 12:00:00AM

Disposed Hearings

- 1 Department: D12 -- Event: EXTEND/TEMP GDSHP -- Scheduled Date & Time: 4/21/2015 at 09:30:00
Event Disposition: D425 - 4/21/2015
- 2 Department: D12 -- Event: Request for Submission -- Scheduled Date & Time: 5/6/2015 at 13:59:00
Extra Event Text: ORDER EXTENDING TEMPORARY GUARDIANSHIP OVER THE PERSON AND ESTATE OF ADEN HAILU
Event Disposition: S200 - 5/8/2015
- 3 Department: D12 -- Event: PET/APPT/GDN/ADULT -- Scheduled Date & Time: 5/26/2015 at 09:15:00
Extra Event Text: PERMANENCY
Event Disposition: D425 - 5/26/2015
- 4 Department: D12 -- Event: Request for Submission -- Scheduled Date & Time: 6/3/2015 at 14:15:00
Extra Event Text: ORDER APPOINTING PERMANENT GUARDIANS OVER THE PERSON AND ESTATE OF ADEN HAILU
Event Disposition: S200 - 6/3/2015
- 5 Department: D12 -- Event: OTHER PROB/TRST/GDSHP HRG -- Scheduled Date & Time: 7/2/2015 at 08:30:00
Extra Event Text: EMERGENCY HEARING
Event Disposition: D844 - 7/2/2015
- 6 Department: D12 -- Event: OTHER PROB/TRST/GDSHP HRG -- Scheduled Date & Time: 7/2/2015 at 14:00:00
Extra Event Text: emergency hearing
Event Disposition: D498 - 7/2/2015
- 7 Department: D12 -- Event: OTHER PROB/TRST/GDSHP HRG -- Scheduled Date & Time: 7/21/2015 at 13:00:00
Extra Event Text: CONT. EMERGENCY HRG
Event Disposition: D355 - 7/21/2015

Actions

Filing Date - Docket Code & Description

Report Does Not Contain Sealed Cases or Confidential Information

- 1 4/16/2015 - 3470 - Pet Appt Temp Guard Adult No\$
Additional Text: Transaction 4910916 - Approved By: MELWOOD : 04-17-2015:09:20:55
- 2 4/17/2015 - 2740 - Ord Appoint Temp Guardian
Additional Text: Transaction 4911896 - Approved By: NOREVIEW : 04-17-2015:11:19:03
- 3 4/17/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4911902 - Approved By: NOREVIEW : 04-17-2015:11:20:04
- 4 4/17/2015 - 3370 - Order ...
Additional Text: TO DISCLOSE MEDICAL RECORDS - Transaction 4911908 - Approved By: NOREVIEW : 04-17-2015:11:21:03
- 5 4/17/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4911910 - Approved By: NOREVIEW : 04-17-2015:11:22:04
- 6 4/17/2015 - 1920 - Letters Temporary Guardianship
Additional Text: LETTERS OF TEMPORARY GUARDIANSHIP OVER THE ESTATE AND PERSON OF ADEN HAILU - Transaction 4912164
- Approved By: YVILORIA : 04-17-2015:12:32:09
- 7 4/17/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4912167 - Approved By: NOREVIEW : 04-17-2015:12:32:57
- 8 4/22/2015 - 1920 - Letters Temporary Guardianship
Additional Text: LETTERS OF TEMPORARY GUARDIANSHIP OVER THE ESTATE AND PERSON OF ADEN HAILU
- 9 5/6/2015 - 3860 - Request for Submission
Additional Text: Transaction 4940252 - Approved By: YLLOYD : 05-06-2015:13:58:37
DOCUMENT TITLE: ORDER EXTENDING TEMPORARY GUARDIANSHIP OVER THE PERSON AND ESTATE OF ADEN HAILU (ATTACHED)
PARTY SUBMITTING: RYAN EARL ESQ
DATE SUBMITTED: 5/6/15
SUBMITTED BY: YLLOYD
DATE RECEIVED JUDGE OFFICE:
- 10 5/6/2015 - 2145 - Mtn Ord to Show Cause
Additional Text: MOTION FOR ORDER TO SHOW CAUSE AS TO WHY TEMPORARY PRIVILEGES CANNOT BE PROVIDED TO THIRD
PARTY PHYSICIAN AND FOR SANCTIONS - Transaction 4940254 - Approved By: YLLOYD : 05-06-2015:14:41:37
- 11 5/6/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4940640 - Approved By: NOREVIEW : 05-06-2015:13:59:36
- 12 5/6/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4940754 - Approved By: NOREVIEW : 05-06-2015:14:42:27
- 13 5/8/2015 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 14 5/8/2015 - 2870 - Ord Extend Temp Guardian
Additional Text: Transaction 4944794 - Approved By: NOREVIEW : 05-08-2015:11:53:37
- 15 5/8/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4944797 - Approved By: NOREVIEW : 05-08-2015:11:54:31
- 16 5/14/2015 - 2550 - Notice of Hearing
Additional Text: MAY 26, 2015 AT 9:15 AM - Transaction 4953161 - Approved By: YVILORIA : 05-14-2015:12:16:38
- 17 5/14/2015 - 4301 - Withdrawal of Motion

Additional Text: WITHDRAWAL OF MOTION FOR ORDER TO SHOW CAUSE AS TO WHY TEMPORARY PRIVILEGES CANNOT BE PROVIDED TO THIRD PARTY PHYSICIAN AND FOR SANCTIONS - Transaction 4953256 - Approved By: MCHOLICO : 05-14-2015:13:01:14

- 18 5/14/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4953428 - Approved By: NOREVIEW : 05-14-2015:12:17:30
- 19 5/14/2015 - 1395 - Citation To Appear
Additional Text: HEARING SCHEDULED MAY 26, 2015 @ 9:15 A.M. IN DEPT 12
- 20 5/14/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4953552 - Approved By: NOREVIEW : 05-14-2015:13:02:00
- 21 5/15/2015 - 1040 - Affidavit of Mailing
Additional Text: Transaction 4955908 - Approved By: NOREVIEW : 05-15-2015:14:30:59
- 22 5/15/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4955912 - Approved By: NOREVIEW : 05-15-2015:14:31:51
- 23 6/3/2015 - 3860 - Request for Submission
Additional Text: ORDER APPOINTING PERMANENT GUARDIANS OVER THE PERSON AND ESTATE OF ADEN HAILU - Transaction 4981811 - Approved By: CSULEZIC : 06-03-2015:13:56:31
PARTY SUBMITTING: RYAN EARL, ESQ
DATE SUBMITTED: 6/03/15
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:
- 24 6/3/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4982068 - Approved By: NOREVIEW : 06-03-2015:13:57:26
- 25 6/3/2015 - F255 - Setld/Withdrn with Jud Conf/Hg
No additional text exists for this entry.
- 26 6/3/2015 - 2720 - Ord Appt Guardian-Estate+Persn
Additional Text: Transaction 4982098 - Approved By: NOREVIEW : 06-03-2015:14:03:58
AB46 FAXED
- 27 6/3/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4982102 - Approved By: NOREVIEW : 06-03-2015:14:06:53
- 28 6/3/2015 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 29 6/4/2015 - MIN - ***Minutes
Additional Text: 5-26 HRG hl - Transaction 4982903 - Approved By: NOREVIEW : 06-04-2015:07:25:08
- 30 6/4/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4982905 - Approved By: NOREVIEW : 06-04-2015:07:25:58
- 31 6/8/2015 - 2720 - Ord Appt Guardian-Estate+Persn
Additional Text: APPOINTING PERMANENT CO-GUARDIANS - Transaction 4987918 - Approved By: NOREVIEW : 06-08-2015:12:52:50
- 32 6/8/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4987938 - Approved By: NOREVIEW : 06-08-2015:12:54:16
- 33 6/8/2015 - 1910 - Letters of Guardianship
No additional text exists for this entry.

- 34 6/10/2015 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 4993398 - Approved By: NOREVIEW : 06-10-2015:15:12:35
- 35 6/10/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4993408 - Approved By: NOREVIEW : 06-10-2015:15:13:35
- 36 6/12/2015 - 1910 - Letters of Guardianship
Additional Text: AMENDED LETTERS OF PERMANENT GUARDIANSHIP OVER THE ESTATE AND PERSON OF ADEN HAILU
- 37 6/12/2015 - 1356 - Certificate of Mailing
Additional Text: MAILED TO WASHOE COUNTY REGISTRAR OF VOTES, SECRETARY OF STATE - JUNE 12, 2015 - Transaction 4999162 - Approved By: YVILORIA : 06-15-2015:08:53:43
- 38 6/15/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 4999422 - Approved By: NOREVIEW : 06-15-2015:08:54:45
- 39 6/17/2015 - 4050 - Stipulation ...
Additional Text: STIPULATION TO WITHDRAW AS COUNSEL OF RECORD - Transaction 5004476 - Approved By: CSULEZIC : 06-17-2015:11:11:20
- 40 6/17/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5004594 - Approved By: NOREVIEW : 06-17-2015:11:13:56
- 41 6/17/2015 - 1356 - Certificate of Mailing
Additional Text: Transaction 5005044 - Approved By: MCHOLICO : 06-17-2015:14:50:25
- 42 6/17/2015 - 1930 - Letters ...
Additional Text: Transaction 5005109 - Approved By: MCHOLICO : 06-17-2015:15:02:48
- 43 6/17/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5005240 - Approved By: NOREVIEW : 06-17-2015:14:51:24
- 44 6/17/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5005287 - Approved By: NOREVIEW : 06-17-2015:15:03:48
- 45 6/18/2015 - MIN - ***Minutes
Additional Text: 4-21-15 EXTENSION HEARING - Transaction 5007642 - Approved By: NOREVIEW : 06-18-2015:16:03:23
- 46 6/18/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5007652 - Approved By: NOREVIEW : 06-18-2015:16:04:30
- 47 7/1/2015 - 1520 - Declaration
Additional Text: DECLARATION OF WILLIAM M. O'MARA IN SUPPORT OF PETITION FOR ORDER AUTHORIZING MEDICAL TREATMENT, RESTRAINING ORDER AND PERMANENT INJUNCTION - Transaction 5026639 - Approved By: MCHOLICO : 07-01-2015:12:48:40
- 48 7/1/2015 - 1670 - Ex-Parte Mtn...
Additional Text: EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER - Transaction 5026639 - Approved By: MCHOLICO : 07-01-2015:12:48:40
- 49 7/1/2015 - 3645 - Petition ...
Additional Text: EMERGENCY PETITION FOR ORDER AUTHORIZING MEDICAL CARE RESTRAINING ORDER AND PERMANENT INJUNCTION - Transaction 5026639 - Approved By: MCHOLICO : 07-01-2015:12:48:40
- 50 7/1/2015 - 3665 - Points&Authorities Support...
Additional Text: POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR ORDER AUTHORIZING MEDICAL TREATMENT, RESTRAINING OR AND FOR PERMANENT INJUNCTION - Transaction 5026639 - Approved By: MCHOLICO : 07-01-2015:12:48:40

- 51 7/1/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5026671 - Approved By: NOREVIEW : 07-01-2015:12:49:48
- 52 7/1/2015 - 3242 - Ord Setting Hearing
Additional Text: Transaction 5027086 - Approved By: NOREVIEW : 07-01-2015:14:32:22
- 53 7/1/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5027099 - Approved By: NOREVIEW : 07-01-2015:14:33:30
- 54 7/1/2015 - 3242 - Ord Setting Hearing
Additional Text: AMENDED ORDER SETTING HEARING - Transaction 5027901 - Approved By: NOREVIEW : 07-01-2015:17:34:20
- 55 7/1/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5027910 - Approved By: NOREVIEW : 07-01-2015:17:35:20
- 56 7/2/2015 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER - Transaction 5028806 - Approved By: YLLOYD : 07-02-2015:13:00:24
- 57 7/2/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5028945 - Approved By: NOREVIEW : 07-02-2015:13:02:23
- 58 7/17/2015 - MIN - ***Minutes
Additional Text: 7/2/15 EMERGENCY HEARING - Transaction 5050473 - Approved By: NOREVIEW : 07-17-2015:12:44:55
- 59 7/17/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5050476 - Approved By: NOREVIEW : 07-17-2015:12:45:52
- 60 7/20/2015 - 3980 - Stip and Order...
Additional Text: Transaction 5053197 - Approved By: NOREVIEW : 07-20-2015:15:11:09
- 61 7/20/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5053200 - Approved By: NOREVIEW : 07-20-2015:15:11:57
- 62 7/24/2015 - MIN - ***Minutes
Additional Text: 7/21/15 CONTINUED EMERGENCY HEARING - Transaction 5062291 - Approved By: NOREVIEW : 07-24-2015:16:23:15
- 63 7/24/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5062294 - Approved By: NOREVIEW : 07-24-2015:16:24:05
- 64 7/28/2015 - 3860 - Request for Submission
Additional Text: Transaction 5065606 - Approved By: YVILORIA : 07-28-2015:14:00:38
DOCUMENT TITLE: FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER DENYING PETITIONER'S TEMPORARY RESTRAINING ORDER BASED ON PETITIONER'S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER FILED 7-1-15 (ORDER INCLUDED IN EXHIBIT)
PARTY SUBMITTING: WILLIAM E PETERSON
DATE SUBMITTED: JULY 28, 2015
SUBMITTED BY: YVILORIA
DATE RECEIVED JUDGE OFFICE:
- 65 7/28/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5065934 - Approved By: NOREVIEW : 07-28-2015:14:01:42
- 66 7/30/2015 - 2630 - Objection to ...
Additional Text: OBJECTION TO REQUEST FOR SUBMISSION OF PROPOSED ORDER - Transaction 5069569 - Approved By: CSULEZIC : 07-30-2015:09:40:59

- 67 7/30/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5069677 - Approved By: NOREVIEW : 07-30-2015:09:42:01
- 68 7/30/2015 - FIE - **Document Filed in Error
Additional Text: TEMPORARY RESTRAINING ORDER AND PERMANENT INJUNCTION - Transaction 5071660 - Approved By: NOREVIEW : 07-30-2015:16:59:41
- 69 7/30/2015 - FIE - **Document Filed in Error
Additional Text: Transaction 5071661 - Approved By: NOREVIEW : 07-30-2015:17:00:31
- 70 7/30/2015 - 2840 - Ord Denying ...
Additional Text: TEMPORARY RESTRAINING ORDER AND PERMANENT INJUNCTION - Transaction 5071696 - Approved By: NOREVIEW : 07-30-2015:17:09:30
- 71 7/30/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5071698 - Approved By: NOREVIEW : 07-30-2015:17:10:21
- 72 7/30/2015 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 5071725 - Approved By: NOREVIEW : 07-30-2015:17:21:31
- 73 7/30/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5071726 - Approved By: NOREVIEW : 07-30-2015:17:22:21
- 74 8/3/2015 - 1368 - Certificate ...
Additional Text: PHYSICIAN'S CERTIFICATE FROM 5/26/15 HRG - Transaction 5073537 - Approved By: YVILORIA : 08-03-2015:09:12:52
- 75 8/3/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5073781 - Approved By: NOREVIEW : 08-03-2015:09:13:39
- 76 8/3/2015 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: NOTICE OF APPEAL FROM ORDER DENYING PETITION FOR ORDER AUTHORIZING MEDICLA TREATMENT, RESTRAINING ORDER AND PERMANENT INJUNCTION FILED ON JULY 30, 2015
- 77 8/3/2015 - PAYRC - **Payment Receipted
Additional Text: A Payment of -\$34.00 was made on receipt DCDC509170.
- 78 8/3/2015 - SAB - **Supreme Court Appeal Bond
No additional text exists for this entry.
- 79 8/3/2015 - 1310 - Case Appeal Statement
No additional text exists for this entry.
- 80 8/3/2015 - 1350 - Certificate of Clerk
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 5074156 - Approved By: NOREVIEW : 08-03-2015:10:43:02
- 81 8/3/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5074163 - Approved By: NOREVIEW : 08-03-2015:10:44:01

1 CODE:
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6 IN THE FAMILY DIVISION
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

10 In the Matter of the Guardianship
11 of the Person and Estate of:
12 ADEN HAILU,
13 An Adult.

Case No. GR15-00125
Dept. No. 12

14 _____/_____
15 FANUEL GABREYES,
16 Petitioner,
17 Vs.

18 PRIME HEALTHCARE SEVICES, LLC dba
19 ST. MARY'S REGIONAL MEDICAL CENTER
20 Respondent
21 _____

22 **ORDER DENYING TEMPORARY RESTRAINING ORDER**
23 **AND PERMANENT INJUNCTION**

24 Petitioner, Fanuel Gebreyes, the guardian and father of Aden Hailu ("Ms. Hailu")
25 requests a Temporary Restraining Order that will restrain Defendants, Prime Healthcare
26 Services, LLC d/b/a St. Mary's Regional Medical Center ("St. Mary's") from taking any
27 action to remove the Ward and Petitioner's daughter, Ms. Hailu, from the ventilator and
28 to continue medical care including, but not limited to, facilitating a tracheostomy and

1 insertion of a feeding tube, thyroid hormone treatment and proper nutrition “to prevent
2 death and also to facilitate her removal from the hospital.” See *July 1, 2015 Ex Parte*
3 *Motion*, 1:24-2:3.

4 This matter was originally filed as a new action (CV15-01172) by Petitioner’s former
5 counsel in Department 4 of this Court, Judge Connie Steinheimer, on June 18, 2015,
6 seeking an Emergency Motion for Temporary Restraining Order “prohibiting Defendants
7 St. Mary’s Regional Medical Center and Prime Healthcare Services from discontinuing
8 life-sustaining measures, including the ventilation, presently sustaining Aden Hailu...
9 until and including July 3, 2015, or such additional time as the Court may deem just and
10 proper for Plaintiff’s to obtain an Independent Medical Evaluation.” *Emergency Motion*,
11 1:19-1:28.

12 Department 4 held an emergency hearing on June 18, 2015. The Parties stipulated
13 that St. Mary’s would “maintain all current life-sustaining services until July 2, 2015 at
14 5:00p.m. in order for the Plaintiff to have an independent examination of Aden Hailu;
15 thereafter, any further request for continued life-sustaining services must be requested
16 through the Guardianship Court.” The parties further stipulated that “if on July 2, 2015,
17 it is determined that Aden Hailu is legally and clinically deceased, the hospital shall
18 proceed as they see fit, and the instant Complaint for Temporary Restraining Order shall
19 be dismissed.” *June 29, 2015 Court Minutes*.

20 On July 1, 2015, Mr. Gebreyes filed an Ex Parte Motion for Temporary Restraining
21 Order and Emergency Petition for Order Authorizing Medical Care, Restraining Order
22 and Permanent Injunction. Respondent filed an Opposition on July 2, 2015. Mr.
23 Gebreyes argues injunctive relief will maintain the status quo, there is a strong likelihood
24 of success on the merits, Ms. Hailu will suffer damage from denial of this motion, and
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1 only a nominal bond should be required. Again, Mr. Gebreyes requests Prime Healthcare
2 Services, LLC, “be restrained from removing Aden Hailu from the ventilator, and ordered
3 to give thyroid hormone treatment, perform a tracheostomy and gastrostomy in order for
4 Aden Hailu to be removed from the hospital.” 6:1-6:5.

5
6 On July 2, 2015, Prime Healthcare Services filed an Opposition arguing Ms. Hailu
7 is legally dead in accordance with accepted medical standards, there is insufficient
8 evidence to establish a likelihood of success on the merits, the balance of all hardships
9 tilts in favor of St. Mary’s as it “will be compelled to administer useless life sustaining
10 treatments to a dead person” and “there is a hardship on the hospital required to
11 administer them in violation of the law, and its code of ethics, and ethical principles of
12 morality held by licensed physicians.” St. Mary’s further argues that public interest
13 “strongly favors St. Mary’s because the public policy, as manifested in the Uniform Act, is
14 to eliminate and preclude these types of disputes and debates from being adjudicated and
15 resolved in courtrooms.” 7:27-8:8.

16
17
18 This Court held a hearing on July 2, 2015. The parties again came to an agreement
19 at that time as follows:

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1. Petitioner has until July 21, 2015 in which to obtain the services of a physician licensed in the State of Nevada who is in good standing with the State medical board and can be credentialed by Respondent in order to examine Aden Hailu and willing to order whatever medications or procedures that licensed physician deems necessary and appropriate for Aden, to include a complete written medical plan and discharge plan. The proposed written medical plan and discharge plan for Aden Hailu will include details about how Aden Hailu will be discharged from the hospital and how she will be transported to another location.
 2. Petitioner also has until July 21, 2015 in which to submit to the Court and Respondent a plan of care supported by a licensed physician in the State of Nevada that details the substance of ongoing treatment and care plan for Aden Hailu. The proposed

1 ongoing treatment and care plan must also be in the best
2 interests of Aden Hailu determined by the Court as informed by
3 the licensed physician. The care plan will include (1) the method
4 of transportation; (2) the location of the destination; (3) a care
5 plan for when Aden Hailu arrives at the destination; and (4) the
6 method of payment for the ongoing care plan.

- 7 3. Petitioner will arrange for and be responsible for all payment
8 related to all aspects of the medical plan, discharge plan and
9 ongoing care plan.
- 10 4. Respondent will provide hospital privileges to the Nevada
11 licensed physician as identified by Petition on an expedited basis
12 and reasonably accommodate all medical procedures and tests
13 ordered by the licensed physician that the licensed physician
14 deems necessary and appropriate.
- 15 5. The July 2, 2015 hearing on Petitioner's Temporary Restraining
16 Order is suspended until July 21, 2015 at 1:30 p.m. and at that
17 time the Court will address all remaining issues, including
18 supplementation of evidence which may include evidence of
19 Respondent's ethics evaluation, and the licensed physician's (as
20 identified by Petitioner) evaluation of Aden Hailu.

July 23, 2015 Stipulation and Order

21 The parties appeared before the Court again on July 21, 2015 to present additional
22 evidence and argument. Based on the testimony, exhibits, and arguments of counsel, the
23 Court makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

- 24 1. The overwhelming weight of the credible medical evidence does not support, and
25 directly contradicts the injunctive relief requested.
- 26 2. The testimony from St. Mary's physicians, Dr. Aaron Heide and Dr. Anthony
27 Floreani, at the July 2nd and July 21st hearings, was credible and established Ms.
28 Hailu meets the definition of death pursuant to the Uniform Determination of
Death Act (NRS 451.007(1)(b))¹ based on standards outlined by the American

¹ NRS 451.007 Determination of death.

1. For legal and medical purposes, a person is dead if the person has sustained an irreversible cessation of:
 - (a) Circulatory and respiratory functions; or
 - (b) All functions of the person's entire brain, including his or her brain stem.

1 Academy of Neurology and that St. Mary's and its physicians followed mandated
2 medical protocols and procedures in reaching their determination.

- 3 3. None of the evidence presented by Petitioner, including the testimony of Dr.
4 Paul Byrne, Dr. Brian Callister and Dr. Scott Manthei negated the substantial,
5 compelling, and credible evidence presented by St. Mary's.
6
7 4. The medical plan of care and discharge plan orally proposed by Petitioner is
8 neither compelling nor convincing as a best interest plan of care for Aden Hailu
9 because it is not sufficiently supported by medical evidence. NRS
10 159.073(1)(c)(1)(I).
11

12 Conclusions of Law

- 13 1. The requirements to be established by Petitioner for a Temporary Restraining
14 Order are that it clearly appears from specific facts shown by affidavit or by the
15 verified complaint that immediate and irreparable injury, loss or damage will
16 result. NRC 65.²
17
18 2. Pursuant to *University and Community College Systems of Nevada*³, before a
19 preliminary injunction will issue, the movant must show: (1) a likelihood of
20 success on the merits, and (2) a reasonable probability that the non-moving
21 party's conduct, if allowed to continue, will cause irreparable harm for which
22

23 2. A determination of death made under this section must be made in accordance with accepted medical standards.

24 3. This section may be cited as the Uniform Determination of Death Act and must be applied and construed to
25 carry out its general purpose which is to make uniform among the states which enact it the law regarding the
26 determination of death.

27 ² The second prong of NRC 65 requires that the applicant's attorney certifies to the court in writing the
28 efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice
should not be required. This is not discussed here as notice was properly given and the respondent attended
each hearing.

3 120 Nev. 712, 721, 100 P.3d 179, 187 (2004)

1 compensatory damages is an inadequate remedy. The Court must also weigh
2 the potential hardships to the relative parties and others, and the public
3 interest. The grant or denial of injunctive relief is within the reasonable
4 discretion of the Court. See NRS 33.010. See also, *Sobol v. Capital*
5 *Management Consultants, Inc.* 102 Nev. 444, 446, 726 P.2d 335, 337 (1986);
6 *Pickett v. Comanche Construction, Inc.*, 108 Nev. 422, 426, 836 P.2d 42, 44
7 (1992).
8

- 9
10 3. The medical evidence herein substantially establishes by clear and convincing
11 evidence that Ms. Hailu meets the definition of death pursuant to the Uniform
12 Determination of Death Act (NRS 451.007(1)(b)) consistent with the medical
13 standards and protocols outlined by the American Academy of Neurology.
14
15 4. NRS 449.626(1)-(2) pertains to withholding treatment and does not go to the
16 right to require the administration of medical treatment for a person or family
17 member without a reasonable medical basis for the same.
18
19 5. The medical and care plan for Ms. Hailu as presented by Mr. Gebreyes is not in
20 the best interests of the Ms. Hailu. The Court, separately from the request for
21 and refusal of injunctive relief, does not affirm the treatment plan as proposed
22 by Mr. Gebreyes as it is unsupported by credible medical evidence.
23
24 6. Petitioner will not suffer immediate and irreparable harm if St. Mary's is not
25 enjoined and restrained from removing Ms.Hailu from the ventilator because
26 medical evidence establishes that Ms. Hailu meets the definition of death under
27 the Uniform Determination of Death Act (NRS 451.007(1)(b)) for legal and
28 medical purposes.

1 7. Petitioner is not likely to succeed on the merits of his claims based on the
2 insufficiency of medical evidence presented in support of his position, and in
3 consideration of the weight of the medical evidence presented by St. Mary's.

4
5 8. Having balanced the equities and the potential harm, including the extent of the
6 injunctive relief requested by Petitioner, and the impact upon Ms.Hailu, Mr.
7 Gabreyes and St. Mary's, the Court finds that equity does not favor granting
8 injunctive relief. The medical evidence substantially establishes by clear and
9 convincing evidence. Ms. Hailu meets the definition of death per the Uniform
10 Determination of Death Act (NRS 451.007(1)(b)) for legal and medical purposes
11 consistent with the medical standards and protocols outlined by the American
12 Academy of Neurology.

13
14 9. The public interest in this matter is ensuring effectuation of Nevada law and in
15 the treatment and care of Ms. Hailu and similarly situated parties. There is a
16 clear public interest in medical professionals making a final determination of
17 death in these circumstances. Under the Uniform Determination of Death Act,
18 there is a clear public interest in the proper treatment of Ms. Hailu after a
19 determination is made consistent with NRS 451.007(1)(b).

20
21 10. Any findings of fact set forth in this document that are conclusions of law, or
22 conclusions of law that are findings of fact, shall be deemed findings and
23 conclusions as appropriate.

24
25 Based on the foregoing, the Court ORDERS that:

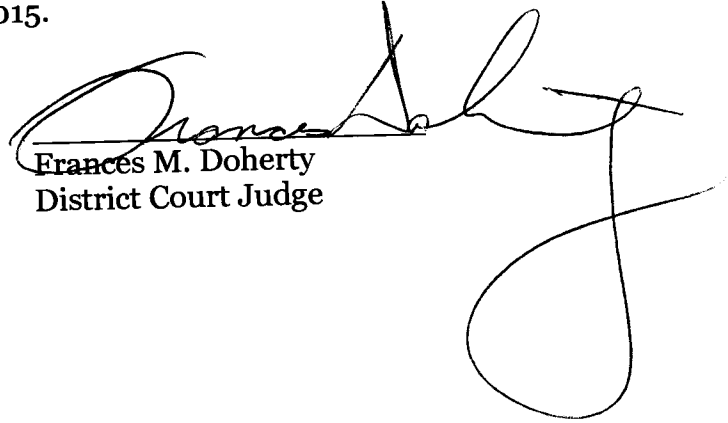
- 26 1. Petitioners' Ex Parte Motion and the Request for Restraining Order are
27 denied.
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2. St. Mary's is not restrained from terminating, withholding, or withdrawing life support systems for Ms.Hailu.
3. This order will be stayed for ten days from the date of entry of this order to allow the Petitioner to seek review by the Nevada Supreme Court.

IT IS SO ORDERED.

Dated: the 30th day of July, 2015.



Frances M. Doherty
District Court Judge

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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court, and that on the _____ day of July, 2015, I deposited for mailing, first class postage pre-paid, at Reno, Nevada, a true and correct copy of the foregoing document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the 30 day of ~~April~~^{July} 2015, I electronically filed the foregoing with the Clerk of Court by using the ECF system which will send a notice to:
William E. Peterson, Esq.
William O'Mara, Esq.



Court Employee

1 **2540**
William E. Peterson
2 Nevada Bar No. 1528
Janine C. Prupas
3 Nevada Bar No. 9156
SNELL & WILMER L.L.P.
4 50 W. Liberty Street, Ste. 510
Reno, Nevada 89501
5 Telephone: 775-785-5440
Facsimile: 775-785-5441
6 Email: wpeterson@swlaw.com
Email: jprupas@swlaw.com

7
8 *Attorneys for Prime Healthcare Services, LLC, dba St.
Mary's Regional Medical Center*

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE

13 IN THE MATTER OF THE GUARDIANSHIP
OVER THE PERSON AND ESTATE OF,

14 ADEN HAILU,

15 An Adult Ward.,

Case No. GR15-00125

Dept. No. 12

16
17 FANUEL GEBREYES,

18 Petitioner,

19 vs.

20 PRIME HEALTHCARE SERVICES, LLC dba
ST. MARY'S REGIONAL MEDICAL
21 CENTER,

22 Respondent.

23 **NOTICE OF ENTRY OF ORDER**

24 TO: All parties and their counsel of record:

25 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that on July 30, 2015, the
26 above-entitled Court entered its Order Denying Temporary Restraining Oder and Permanent
27 Injunction, to which Order reference is hereby made for further particulars.
28

1 A copy of the Order Denying Temporary Restraining Order and Permanent Injunction
2 filed July 30, 2015, is attached hereto and marked Exhibit "1."

3 **AFFIRMATION**
4 **Pursuant to NRS 239B.030**

5 The undersigned does hereby affirm that the proceeding document does not contain the
6 social security number of any person.

7 Dated: July 30, 2015

SNELL & WILMER L.L.P.

8
9 By: 

10 William E. Peterson, No. 1528
11 Janine C. Prupas, No. 9156
12 50 West Liberty Street, Suite 510
13 Reno, Nevada 89501

14 *Attorneys for Prime Healthcare Services,*
15 *LLC, dba St., Mary's Regional Medical*
16 *Center*

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Snell & Wilmer

L.L.P.
LAW OFFICES
6100 Neil Road, #555,
Reno, Nevada 89511
775-839-6000

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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** by the method indicated:

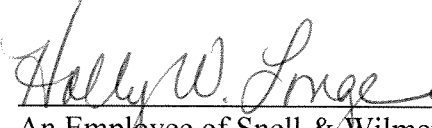
- XX by Court's CM/ECF Program
- _____ by U.S. Mail
- _____ by Facsimile Transmission
- _____ by Overnight Mail
- _____ by Federal Express
- _____ by Electronic Service
- _____ by Hand Delivery

and addressed to the following:

William M. O'Mara, Esq.
The O'Mara Law Firm, P.C.
311 East Liberty Street
Reno, Nevada 89501

Attorney for Plaintiff

DATED: July 30, 2015


An Employee of Snell & Wilmer L.L.P.

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EXHIBIT LIST

1. Order Denying Temporary Restraining Order and Permanent Injunction 9

EXHIBIT 1

FILED
Electronically
2015-07-30 05:21:02 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5071725

EXHIBIT 1

1 CODE:
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6 IN THE FAMILY DIVISION
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8 IN AND FOR THE COUNTY OF WASHOE
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23 **AND PERMANENT INJUNCTION**

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27 action to remove the Ward and Petitioner's daughter, Ms. Hailu, from the ventilator and
28 to continue medical care including, but not limited to, facilitating a tracheostomy and

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2 death and also to facilitate her removal from the hospital.” *See July 1, 2015 Ex Parte*
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16 through the Guardianship Court.” The parties further stipulated that “if on July 2, 2015,
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18 proceed as they see fit, and the instant Complaint for Temporary Restraining Order shall
19 be dismissed.” *June 29, 2015 Court Minutes*.

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22 *July 23, 2015 Stipulation and Order*

23 The parties appeared before the Court again on July 21, 2015 to present additional
24 evidence and argument. Based on the testimony, exhibits, and arguments of counsel, the
25 Court makes the following Findings of Fact and Conclusions of Law:

26 **Findings of Fact**

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- 28 1. The overwhelming weight of the credible medical evidence does not support, and
directly contradicts the injunctive relief requested.
2. The testimony from St. Mary's physicians, Dr. Aaron Heide and Dr. Anthony
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- 1 7. Petitioner is not likely to succeed on the merits of his claims based on the
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3 consideration of the weight of the medical evidence presented by St. Mary's.
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- 5 8. Having balanced the equities and the potential harm, including the extent of the
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16 clear public interest in medical professionals making a final determination of
17 death in these circumstances. Under the Uniform Determination of Death Act,
18 there is a clear public interest in the proper treatment of Ms. Hailu after a
19 determination is made consistent with NRS 451.007(1)(b).
20
- 21 10. Any findings of fact set forth in this document that are conclusions of law, or
22 conclusions of law that are findings of fact, shall be deemed findings and
23 conclusions as appropriate.
24

25 Based on the foregoing, the Court ORDERS that:

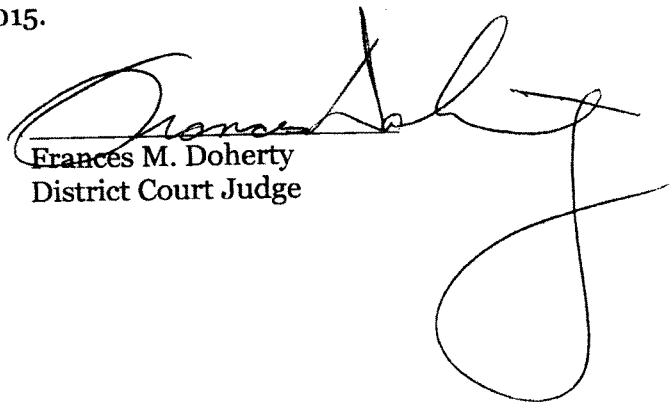
- 26 1. Petitioners' Ex Parte Motion and the Request for Restraining Order are
27 denied.
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2. St. Mary's is not restrained from terminating, withholding, or withdrawing life support systems for Ms.Hailu.
3. This order will be stayed for ten days from the date of entry of this order to allow the Petitioner to seek review by the Nevada Supreme Court.

IT IS SO ORDERED.

Dated: the 30th day of July, 2015.



Frances M. Doherty
District Court Judge

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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court, and that on the _____ day of July, 2015, I deposited for mailing, first class postage pre-paid, at Reno, Nevada, a true and correct copy of the foregoing document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the 30 day of ~~April~~ ^{July} 2015, I electronically filed the foregoing with the Clerk of Court by using the ECF system which will send a notice to:
William E. Peterson, Esq.
William O'Mara, Esq.



Court Employee

IN THE FAMILY DIVISION
SECOND JUDICIAL DISTRICT COURT
HON. FRANCES M. DOHERTY

REPORTER: CO CLERK: H. Lyan

Case No. GR15-00125 GUARD: ADEN HAILU (PR) Initial File Date: 4/16/2015

Hearing Date: 5/26/2015 Scheduled Start Time: 09:15:00

Case Type: GUARDIANSHIP OF AN ADULT

Event: PET/APPT/GDN/ADULT - PERMANENCY

Parties:

PETR METSIHATE ASFAW - @1274928 ✓

PETR FANUEL GEBREYES - @1274927 ✓

AWRD ADEN HAILU - @1274929 excused

ATTY Ryan J. Earl, Esq. - 5292 ✓

Others Present:

Pursuant to the filing a proper petition as set forth in NRS 159.044, the issuance and service of a citation, and/or notice in accordance with NRS 159.047/159.0475: the ward being [] present [] excused in accordance with NRS 159.0535, upon the representation by counsel and the petitioner, it appearing to the Court that the allegations of the petition are sufficient, and that the guardian should be appointed for the proposed ward:

IT IS HEREBY ORDERED that PETR - METSIHATE ASFAW - @1274928
PETR - FANUEL GEBREYES - @1274927

R. Earl - updated court on status of ward + medical needs; there are discussions about a transfer to Las Vegas to a facility, ward has a car they are trying to insure

be appointed as the [] temporary guardian(s) [] permanent guardian(s) of the [] person(s) [] estate of the ward(s). Fees for the guardian(s) are [] waived [] awarded in the amount of \$ _____, and costs of \$ _____.
Attorney's fees are awarded in the amount of \$ _____, and costs of \$ _____. Bond is [] waived [] set at \$ _____.

Other: voting rights suspended; 159.0593 apply
10/16/15 @ 1:00 pm - gdnshp training; one of the gans only

IT IS HEREBY ORDERED that the Event: PET/APPT/GDN/ADULT - PERMANENCY

is denied for the following reason(s) _____

Matter continued to : _____ For: _____

EXTENSION HEARING

The adult ward Aden Hailu was not present. Co-Guardians Fanuel Gebreyes and Metsihate Asfaw were present represented by Ryan Earl.

April 21, 2015
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(Bailiff)

Ms. Asfaw stated they have accessed Ms. Hailu’s medical records but they are about 600 pages and they will need a doctor to assist in going through them.

Counsel Earl stated Mr. Gebreyes is trying to make progress in transferring Ms. Hailu to a Las Vegas facility where he is a resident and there are medical issues that will need to be addressed with that decision. The Las Vegas facility is willing to accept Ms. Hailu and the guardians are trying to work with Saint Mary’s to effectuate the transfer. Saint Mary’s has provided two options to the family, ending Ms. Hailu’s life or discharging her from the facility.

Ms. Asfaw stated it has been difficult to work with Saint Mary’s.

THE COURT ORDERED: The temporary guardianship shall be extended. A permanency hearing is set for May 26, 2015 at 9:15am. The Court would like a physician in Washoe County advising the guardians, supporting their decision making and available to the Court at the permanency hearing with respect to Ms. Hailu’s condition and that the transfer not occur without a physician supporting the transfer.

The Counsel Earl shall prepare the order.

Minutes
Completed by: J.
Martin on 6/18/15

EMERGENCY HEARING

July 2, 2015
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The adult ward Aden Hailu was not present. Co-Guardian Fanuel Gebreyes was present represented by William O'Mara. William Peterson and Janine Prupas were present on behalf of Saint Mary's Medical Center.

Counsel O'Mara stated his pleadings indicate the ventilator was to be turned off on July 3rd and that should actually be July 2nd. Counsel O'Mara provided opening statements and the background of the case. Counsel Peterson provided opening statements, procedural history, and discussed the case before Department 15 and the Uniform Determination of Death Act.

Mr. Fanuel Gebreyes was sworn to testify and directly examined by Counsel O'Mara. Mr. Gebreyes testified he first learned of the situation with her daughter on April 1st. He called Saint Mary's and they would not provide information. He travelled to Reno on April 2nd. He discussed his conversations with the treating doctor at Saint Mary's. Dr. Chu agreed to perform the procedures needed to move Ms. Hailu and then she changed her mind. He refused the apnea test. He would like to move Ms. Hailu out of Saint Mary's. Ms. Hailu is alive. The abrasion on Ms. Hailu's bottom has healed. The healing occurred after the hospital determined she was dead.

Mr. Gebreyes was cross-examined by Counsel Peterson. Mr. Gebreyes testified today is the first time he heard of Dr. Gomez doing an evaluation of Ms. Hailu. He did not retain Dr. Gomez and said no to a doctor from Renown coming to perform tests. They have not sought treatment from other doctors for the trach and feeding tube because she is in the hands of Saint Mary's where there are plenty of doctors to perform the procedures. Dr. Chu had promised to perform the procedures and then changed her mind.

Mr. Gebreyes was examined on redirect by Counsel O'Mara. Mr. Gebreyes testified he has never met Dr. Gomez and did not authorize him to see Ms. Hailu. He did not contact other doctors because Ms. Hailu is in the hand of doctors and they are supposed to preserve life. Dr. Chu said she would do the trach but then came back and said no because the administration and attorneys were involved. Saint Mary's does not allow outside doctors come in from the outside. They were granted leave to seek a doctor to perform the physician's cert in the beginning of the guardianship because Saint Mary's would not fill it out. They wrote a check to a physician to complete the physician's certificate and then Saint Mary's said they would do it on their own.

Court recessed at 3:03pm to provide counsel with a copy of the physician's certificate from the previous hearing. Court reconvened at 3:13pm.

Dr. Paul Byrne was sworn to testify and directly examined by Counsel O'Mara. Dr. Byrne testified regarding his qualifications and history as a physician. He has reviewed the medical records for the adult ward. It is his opinion that Ms. Hailu is alive, has never been dead, and needs treatment, care, and a ventilator. He has seen Ms. Hailu at the hospital but has not examined Ms. Hailu. He is licensed in three states and has testified as an expert witness previously. He testified regarding the medical conditions and records of the Ms. Hailu. There is indication that Ms. Hailu has stimulation to her thyroid and this is critical to healing. He testified regarding the significance of the thyroid. Ms. Hailu probably has diabetes insipidus from her sodium levels and the hospital has been treating it although he did not get the nurses notes. He does not see anywhere in the record that she is being treated for the hypothyroidism. He testified regarding the effects of hypothyroidism. He discussed report he has written on this subject and patients in similar conditions that he has treated where the patients have recovered. He believes if Ms. Hailu receives thyroid treatment she will improve. He discussed the need for a

EMERGENCY HEARING

July 2, 2015
HONORABLE
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tracheostomy and the timelines for putting in a trach. He further testified regarding the need for a gastrostomy. If Ms. Hailu receives the thyroid treatment, gastrostomy, and tracheostomy she can be transported to Las Vegas although she will still require a ventilator. Mr. Gebreyes is capable of caring for Ms. Hailu with support.

Dr. Byrne was cross-examined by Counsel Peterson.

Dr. Byrne testified he spent 15 minutes in the room with Ms. Hailu when he went to the hospital with Mr. Gebreyes and he did not examine Ms. Hailu. He offers his services on the internet to educate people about his beliefs and studies in this area. He believes Mr. Gebreyes found him through the internet and he is not being paid for his services. He sometimes is paid for lectures. He is not a neurologist. He testified regarding Jahi McMath. He further testified regarding the procedures that Ms. Hailu needs. He has written several books and articles on the internet.

Interested Party Exhibit 1-A through 1-I was marked.

Dr. Byrne continued to be cross-examined by Counsel Peterson.

Dr. Byrne testified regarding Interested Party exhibit 1-B. He is not familiar with the Uniform Death Act. He testified regarding his research and prior writings regarding brain death. He further testified regarding Interested Party Exhibit 1-B. Dr. Byrne testified regarding Interested Party exhibit 1-C. He feels there is a clear difference between life and death and his position is nobody should be declared dead unless there is destruction of at least three major systems of the body, circulatory, respiratory, and the brain. He would not declare someone dead who has a beating heart circulation and respiration which Ms. Hailu has. He testified regarding Interested Party exhibit 1-D. He testified regarding Interested Party exhibit 5. He is only aware of one apnea test performed on Ms. Hailu. He testified regarding the negative consequences of the apnea test on Ms. Hailu.

Interested Party Exhibit 2 was marked.

Dr. Byrne continued to be cross-examined by Counsel Peterson.

Dr. Byrne testified regarding Interested Party exhibit 2. He feels the Uniform Death Act has made it too easy to declare death.

Interested Party Exhibit 3 was marked.

Dr. Byrne continued to be cross-examined by Counsel Peterson.

Dr. Byrne testified regarding Interested Party exhibit 3.

The Court recessed at 4:23pm.

The Court reconvened at 4:35pm.

Dr. Byrne was examined on re-direct by Counsel O'Mara.

Dr. Byrne further testified regarding Interested Party 1-B. A ventilator does not work on a corpse. Ms. Hailu has circulation and a beating heart. Ms. Hailu is able to expel her breath. Nobody should ever get an apnea test. A ventilator is live preserving. He testified regarding the Harvard study that resulted in the Declaration of Death. He testified regarding exhibit 1-B. He is unsure where the quotation in that exhibit came from. He testified regarding Interested Party exhibit 3.

Dr. Aaron Heide was sworn to testify and directly examined by Counsel Peterson.

Dr. Heide testified regarding his current position as the director of Neurology at Saint Mary's Medical

EMERGENCY HEARING

July 2, 2015
HONORABLE
FRANCES
DOHERTY
Dept. No. 12
J. Martin
(Clerk)
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(Record)
G. Gomez
(Bailiff)

Center. He further testified regarding his educational and professional background and qualifications. He first examined Ms. Hailu on April 12th. He reviewed his clinical notes to refresh his recollection and testified regarding the initial examine of Ms. Hailu on April 12th. At that time Ms. Hailu was not classified under the criteria for brain death but she was rapidly declining at that time. Ms. Hailu's neurological findings and functions were disappearing. During 48 hours Ms. Hailu declined from having some neurological function to having no neurological function. He testified regarding neurological function, the decline of Ms. Hailu's neurological functions, and the assessments used to determine the decline and eventual lack of Ms. Hailu's neurological functions. He determined that in this case there was irreversible brain damage and needed to assess if there was brain death. He used the American Academy of Neurology guidelines to guide his assessment. He further discussed these guidelines, test to gather this data, and Ms. Hailu's response to these tests. He last examined Ms. Hailu on April 28th.

Interested Party Exhibit 4, 5, and 6 were marked.

Dr. Heide continued to be directly examined by Counsel Peterson.

Dr. Heide testified regarding Interested Party exhibit 4. He does not know Dr. Gomez and did not know he performed an apnea test. Based on the evidence and his experience he felt that Ms. Hailu had zero percent chance of any form of functional neurological outcome. He address Mr. Gebreyes directly. He further testified regarding the function of exhaling. Brain death does not exclude the presence of live brain cells but that there is a zero percent chance of functional outcome. The imaging was consistent with catastrophic irreversible hypoxic brain damage. Dr. Heide provided testimony regarding transcranial Doppler testing. Ms. Hailu met the criteria for lack of blood flow to the brain consistent with sustainability. Based on guideline, experience and training Ms. Hailu has zero percent chance of a functional neurological outcome and thereby meets the criteria documented in the notes as brain death. There are three primary areas of review. Two are clinical exams. One is unresponsiveness or coma and the other is brain stem activity.

Dr. Heide was cross examined by Counsel O'Mara.

Dr. Heide testified further regarding his education and professional background. He is employed by Saint Mary's Medical Group currently. His first assessment of Ms. Hailu was that she was not brain dead. He read his notes from the first assessment. He believes the first assessment actually happened on April 13th. He saw Ms. Hailu again on April 14th and activity he saw in her from the previous day was gone. He testified further regarding the Academy of Neurology guidelines that he uses. In his medical opinion, he does not believe thyroid treatment in Ms. Hailu will reverse her neurological damage. He does not test the hypothalamus. He does not have the medical records from the labs. He recommended the apnea test but did not order it. On April 13th his notes indicate Ms. Hailu was chewing on the tube. He was not involved in the discussion regarding organ donor protocol. Movements can be a result of spinal reflexes and movement may not be considered activity of the brain. He only has access to his own medical records.

The Court recessed at 5:41pm.

The Court reconvened at 5:50pm.

The Court indicated that the Clerk reported during Dr. Byrne's testimony he had documents at the stand that were not disclosed but mistakenly handed back to the Court. Counsel reviewed the documents and raised no concerns.

Helen Liedholm was sworn to testify and directly examined by Counsel Peterson.

Ms. Liedholm testified she is the chief executive office of Saint Mary's Regional Center and Saint Mary's Medical Group. She testified regarding her education and professional background. Ms. Liedholm directly address Mr. Gebreyes. The hospital is not opposed to Mr. Gebreyes seeking to discharge Ms. Hailu and

EMERGENCY HEARING

July 2, 2015
 HONORABLE
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 Dept. No. 12
 J. Martin
 (Clerk)
 JAVS
 (Record)
 G. Gomez
 (Bailiff)

move her. The family must arrange for the transfer, transport, and appropriate equipment to maintain Ms. Hailu in her current condition.

Interested Party Exhibit 7 was marked.

Ms. Liedholm continued to be directly examined by Counsel Peterson.

Ms. Liedholm testified regarding Interested Party exhibit 7 and the procedures listed within the document. Only a physician licensed in Nevada and credentialed at Saint Mary's can order those procedures. There are various ways the orders can be carried out. The hospital would welcome and allow the family to bring in a physician they are comfortable with to carry out these or other orders if the physician is licensed in Nevada and credentialed at Saint Mary's or has temporary emergency privileges. The hospital is still willing to allow this and the hospital is willing to pay for it.

Ms. Liedholm was cross examined by Counsel O'Mara.

Ms. Liedholm testified if the physician is licensed in the state of Nevada and and their medical staff services through their processes can verify that the physician is in good standing they can provide the emergency privileges fairly rapidly. They would work with Mr. Gebreyes to accomplish this. This offer has been made through their counsel to Mr. Gebreyes's prior counsel and they are making the offer again.

Counsel O'Mara stated he had not previously heard the offer and he would accept it on behalf of his client. Ms. Liedholm testified if the family can find a physician that has not been involved in this case to this point that is willing to verify what has been determined by the treating physicians or write the orders for the procedures and medications that were suggested in exhibit 7 then the hospital will allow that. Counsel Peterson argued that Mr. Gebreyes has had the time to get a physician and this has previously been offered.

Mr. Gebreyes testified he would like to take the opportunity because he was not given it before.

The Court recessed at 6:10pm and asked to see counsel in chambers.

The Court reconvened at 6:35pm.

The parties agreed there is a temporary stipulation which Counsel Peterson placed on the record: Mr. Gebreyes will have 21 days to obtain the services of a physician licensed in the State of Nevada who is in good standing and can be credentialed by Saint Mary's Hospital to come to the hospital. The physician can examine the patient and determine if Ms. Hailu is alive or dead and if alive the physician can order whatever procedures and medications are deemed appropriate by them to include a complete medical plan, discharge plan, that also would include discharging from the hospital and transporting from the hospital to some other location at their own expense.

The Court clarified that there was an offer of payment from the hospital.

Counsel Peterson stated he believes the hospital will pay for the physician to assess Ms. Hailu but not for the procedures ordered by that physician.

Counsel O'Mara stated Medicare will cover medicals through July.

Counsel Peterson stated the hope is that after 20 days the matter will come before the court for determination or Ms. Hailu will be out of the hospital.

Counsel O'Mara stated the period is 19 days. The other co-guardian is in Russia attending college.

THE COURT ORDERED: Saint Mary's Hospital will accommodate a physician who is licensed in the State of Nevada, Saint Mary's will provide privileges to practice within the hospital on an expedited basis, potentially with a turn around of 24-28 hours. The Court heard the CEO offer that

EMERGENCY HEARING

**July 2, 2015
HONORABLE
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Dept. No. 12
J. Martin
(Clerk)
JAVS
(Record)
G. Gomez
(Bailiff)**

the hospital would accommodate requests for procedures, blood work, and supplemental medical orders of such a physician as determined appropriate by such physician and that that physician would be paid for by Saint Mary’s. The Court does not want to be back in the same situation as today with a non-neurological expert and Mr. Gebreyes shall look for an appropriate physician. With respect to transfer, the guardians will have a plan of care supported by a medical physician that details the substance of the treatment and care plan for Ms. Hailu. The treatment and care plan needs to be a feasible plan in Ms. Hailu’s best interest. The care plan will include the transportation method and manner, the location to where she will be transported, the plan of care for Ms. Hailu once she arrives at the destination, and the method of payment for such care. This is the second opinion being accommodated by Saint Mary’s, requested by the guardian and approved by the Court. It is the Court’s impression that the parties are stipulating to suspend the hearing to preserve the evidence and to reconvene in 19 days on July 21, 2015 at 1:30pm, to receive a report on the transport or to address the remaining issues outstanding. The parties may supplement the current record. The Court accepts this stipulation. The Court requests the presence of the co-guardian at the next hearing or a stipulation to a written statement from the co-guardian.

**Minutes Completed
by: J. Martin on
7/17/15**

Counsel shall confer regarding the preparation of the order.

Exhibits

HEARING: EMERGENCY HEARING

TITLE: **GUARD: ADEN HAILU**

CO-GUARDIAN: **FANUEL GEBREYES**

INTERESTED PARTY: **SAINT MARY'S MEDICAL CENTER**

ATTY: **DAVID O'MARA, ESQ.**

ATTY: **WILLIAM PETERSON, ESQ.**

JANINE PRUPAS, ES.

WARD: **ADEN HAILU**

Case No: **GR15-00125** Dept. No: **12** Clerk: **J. MARTIN**

Date: **7/2/15**

Exhibit No.	Party	Description	Marked	Offered	Admitted
1-A	INTERESTED PARTY	"JUDGE RULES AGAINST BRAIN-DEAD GIRL'S FAMILY" – SF GATE	7/2/15		
1-B	INTERESTED PARTY	"SHE'S VERY MUCH A LIVING PERSON" LIFESITE	7/2/15		
1-C	INTERESTED PARTY	"STORIES FROM THE TRAUMA BOY"	7/2/15		
1-D	INTERESTED PARTY	"JAHİ MCMATH, CAN YOU MOVE?" RENEW AMERICA	7/2/15		
1-E	INTERESTED PARTY	"DIRECTIONS TO PROTECT AND PRESERVE LIFE" – LIFE GUARDIAN FOUNDATION	7/2/15		
1-F	INTERESTED PARTY	"EXECUTION IN A NEW YORK HOSPITAL" RENEW AMERICA	7/2/15		
1-G	INTERESTED PARTY	"JAHİ IS ALIVE—PRAISE THE LORD AND PASS THE AMMUNITION" RENEW AMERICA	7/2/15		
1-H	INTERESTED PARTY	CHRIST OR CHAOS, DR. PAUL BYRNE'S REFUTATION	7/2/15		
1-I	INTERESTED PARTY	"TRUTH ABOUT ORGAN DONATION"	7/2/15		
2	INTERESTED PARTY	"QUINLAN RE-EXAMINED" RENEW AMERICA	7/2/15		
3	INTERESTED PARTY	"MORPHOLOGICAL AND FUNCTIONAL ALTERATIONS OF THE HYPOTHALAMIC-PITUITARY SYSTEM" SPRINGER LINK	7/2/15		
4	INTERESTED PARTY	SM PLUM PROGRESS NOTE	7/2/15		
5	INTERESTED PARTY	ASSESSMENT/PLAN	7/2/15		

Exhibits

HEARING: EMERGENCY HEARING

TITLE: **GUARD: ADEN HAILU**

CO-GUARDIAN: **FANUEL GEBREYES**

INTERESTED PARTY: **SAINT MARY'S MEDICAL CENTER**

ATTY: **DAVID O'MARA, ESQ.**

ATTY: **WILLIAM PETERSON, ESQ.**

JANINE PRUPAS, ES.

WARD: **ADEN HAILU**

Case No: **GR15-00125** Dept. No: **12** Clerk: **J. MARTIN** Date: **7/2/15**

Exhibit No.	Party	Description	Marked	Offered	Admitted
6	INTERESTED PARTY	PROGRESS NOTES FOR ADEN HAILU	7/2/15		
7	INTERESTED PARTY	DECLARATION IN SUPPORT OF PETITION OF ORDER AUTHORIZING MEDICAL TREATMENT, RESTRAINING ORDER AND PERMANENT INJUNCTION	7/2/15		

CONTINUED EMERGENCY HEARING

July 21, 2015
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The adult ward Aden Hailu was not present. Co-Guardian Fanuel Gebreyes was present represented by William O'Mara. William Peterson and Janine Prupas were present on behalf of Saint Mary's Medical Center.

Counsel O'Mara discussed the purpose of the hearing and updated the Court on the plan to relocate Ms. Hailu. He discussed witnesses he would like to present.

Counsel Peterson provided a status report to the Court. He was not given notice of new witnesses and has not had an opportunity to speak with the witnesses. He argued against the presented plan and discussed the deficiencies in the plan presented.

Counsel O'Mara further argued in support of the plan presented to move Ms. Hailu.

The Court stated that the evidence presented at the previous hearing was substantial and credible upon which a reasonable person would rely from Dr. Heide. The evidence indicates that Ms. Hailu is in a state of continued life support and that she meets the statutory definition for death should that life support discontinue. What the guardian was to do and what the guardian is doing are two differed things. What the guardian was to do was to obtain additional medical information that would help this Court and the guardian reach a conclusion different from what the overwhelming medical evidence has established. Dr. Byrne's evidence was not medically acceptable, was not compelling, was not credible, and was not sufficient for the court to reach a conclusion consistent with ongoing continued and extended care. The plan was to allow addition time to provide other credible evidence and a plan of care. The Court does not have that but will listen to the testimony of the witnesses but the Court will not redirect this case because redirection inconsistent with medical evidence that is in the record will go to other issues, issues of best interest decision making and issues of whether the guardian is asking for experimental care and treatment. This is not just the issue of whether Saint Mary's remain involved in the life of Ms. Hailu or her circumstances. The Court will not facilitate an impractical course of treatment. The guardian has not met the expectations of the Court and the order of the Court but the Court will allow supplementation of the record.

Counsel O'Mara stated it is not the hospital or the Court's decision on whether Ms. Hailu is dead and what treatment she will receive, that decision is the parent or guardians.

It is the guardian's responsibility in a situation like this that the evidence and decision making is consistent with the best interest, with supported evidence, with prudence and reasonableness. It is quality of the guardian and the guardian's decision-making that the Court is reviewing.

Court recessed at 2:28pm to allow each counsel to speak with witnesses separate and apart from each other.

Court reconvened at 3:12pm.

Dr. Thomas Callister was sworn to testify and directly examined by Counsel O' Mara.

Dr. Callister testified regarding his professional background.

Guardian's exhibit A was marked, offered and admitted without objection. Interested Party exhibits 1-A – 1-I and 2-7 were offered and admitted without objection.

Dr. Thomas Callister continued to be directly examined by Counsel O' Mara.

Dr. Callister testified he examined Ms. Hailu this morning from about 11:00 a.m. to 1:00 p.m. He believes Ms. Hailu can travel with support services if that is what the family wishes. He believes Ms. Hailu's status is grim, her chance of survival and awakening from her current state is a long shot however; he does not

CONTINUED EMERGENCY HEARING

July 21, 2015
HONORABLE
FRANCES
DOHERTY
Dept. No. 12
J. Martin
(Clerk)
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feel the chances are zero. He discussed the tracheostomy and gastrostomy needed to continue the care for her. Those procedures are high risk for Ms. Hailu. He further discussed the concepts of Dr. Byrne. There would be no harm in trying the treatments suggested. He does not feel there would be a response but he cannot say that there would not be for certain. He testified regarding the test performed on Ms. Hailu.

Dr. Callister was cross examined by Counsel Peterson.

Dr. Callister testified he first became aware of this case on Sunday, he was contacted by Tom Walsh then by Dr. Byrne. He first spoke with Counsel O'Mara today. He will not be Ms. Hailu's doctor and will not care for her because of his travel schedule and current position. He was not told there were two apnea tests. He went to the hospital this morning to see Ms. Hailu. He was able to review some of the medical records. He discussed the medical records he reviewed and the exam he performed. He examined Ms. Hailu for approximately 20-30 minutes. He is not a neurologist but is familiar with some of the criteria from the American Association for Neurologist. He is not an expert with these criteria. He got no neurological responses from Ms. Hailu during the exam and tests. He testified further regarding the exam of Ms. Hailu. The blood flow to Ms. Hailu's brain was reduced in April but he does not know about the months of May, June, or July. All of the results from his test performed during the exam could be consistent with brain death but it could also be an indication of other things. There has only been one medical group making the decision regarding Ms. Hailu. He is not challenging the competency of the Saint Mary's doctors but it is typical to get a second opinion in a situation like this. He testified regarding the three signs of brain death. The coma looks irreversible but he is not certain. The apnea test was consistent with brain death based on the condition but unequivocally he would not use that term. The EEG tests were not consistent with brain death but were deteriorating. He is associated with a facility that care for patients like Ms. Hailu but he does not directly benefit from patients going to the facility. He was told that Ms. Hailu will be transferred to Saint Rose in Las Vegas, there is a pulmonary group there willing to assume her care and also an ear nose and throat doctor willing to assume her care and do the tracheostomy. He has never spoke with Dr. Manthei.

Dr. Callister was re-directly examined by Counsel O'Mara.

Dr. Callister testified he would classify the treatment plan for Ms. Hailu as an empirical trial. He testified regarding the thyroid treatment purposed by Dr. Byrne. He thinks it is unlikely that the thyroid treatment would improve Ms. Hailu but he cannot say it is impossible. He testified regarding the need for the tracheostomy and feeding tube to continue Ms. Hailu's care. Ms. Hailu would not be going to his facility and it would be Saint Rose's determination if Ms. Hailu is in need of a long term acute care facility. Saint Rose is a short-term acute care facility. The treatments suggested would probably not help Ms. Hailu but it is better to error on the side of life. A transport in a patient like Ms. Hailu increases the risks of complications but it can be done by air ambulance with acute critical care nurses.

Dr. Callister was examined on re-cross by Counsel Peterson.

Dr. Callister testified it is important to look at a patient's age and prior condition. Ms. Hailu is young and despite her current situation the rest of her body seems to be functioning well, she is having bowel movements, making urine, and her skin is in remarkably good condition. Most people who are brain dead and on a ventilator start to have a lot of other issues and signs of deterioration of the body. Even when young bodies lose all brain function the body tends to shut down. He discussed brain functions. There is a need for neurological signals to run the other organs. He questions how much brain function Ms. Hailu has. All test will come back with brain death when the cortex is not functioning. By the strict criteria, Ms. Hailu would meet brain death. From the check box criteria, Ms. Hailu is brain dead.

Dr. Callister was re-directly examined by Counsel O'Mara.

CONTINUED EMERGENCY HEARING

July 21, 2015
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Dr. Callister testified there is enough variables and questions based on the condition of Ms. Hailu's physical body, the EEGs and the fact that no further neurologic testing has been done in several months and the fact that no outside third party neurologist has looked at her, he would have pause. Her situation is grim, her chance for recovery is remote, and a long shot but he does not think it is zero.

Dr. Scott Manthei was contacted telephonically, sworn to testify and directly examined by Counsel O'Mara.

Dr. Manthei testified regarding his professional background. He discussed his curriculum vitae.

Guardian's exhibit B was marked and admitted without objection.

Dr. Manthei continued to be directly examined by Counsel O'Mara.

Dr. Manthei testified he was introduced to this case by Dr. Sharon Frank, Dr. Byrne, and two attorneys. Dr. Byrne forwarded his affidavit regarding Ms. Hailu. He is prepared to do a tracheostomy for Ms. Hailu. He will not be doing the feeding tube procedure. The feeding tube would have to be done by a surgeon who has privileges at Saint Rose. There are no arrangements for Saint Rose to accept Ms. Hailu at this time and it can be done but the intensive care beds are all full right now. A critical care nurse on the medical flight would be sufficient.

Dr. Manthei was cross-examined by Counsel Peterson.

Dr. Manthei testified he became involved in this matter two weeks ago. He has not reviewed any medical records for Ms. Hailu. He has not examined Ms. Hailu. He is not qualified to declare Ms. Hailu brain dead. He is independently employed and has been attempting to arrange with the hospital to perform the tracheostomy but he will not be directing her care. Ms. Hailu will need a pulmonary specialist to care for the trach until she is transferred to long-term care. He has not secured OR time yet. He is unaware of the financial arrangements for the treatment. The plan of care for Ms. Hailu is at Saint Rose with the inpatient care unit under the direction of the pulmonary specialist after the tracheostomy. He needs the approval to have Ms. Hailu transfer from the Reno area to the hospital and the hospital is requesting more information on the long-term care availability in the area before accepting her care. In order to admit a patient for a procedure there has to be operating room time and that is dependent on her having a bed at the hospital to recover after the surgical procedure. The hospital wants to make sure there is a placement secured for long-term care after Ms. Hailu recovers from the surgical procedures. There has not been attempts to secure the second placement.

Dr. Manthei was re-directly examined by Counsel O'Mara.

Dr. Manthei testified a nursing supervisor will gather payment information as well as the requirements for long term-care. They required complete medical records and history for the patient. It can take anywhere from a day or two to a month or two to secure long term care. Ms. Hailu would stay at Saint Rose until long-term care was obtained with adequate care. Saint Rose has not agreed to accept Ms. Hailu without the second placement secured. The records he has reviewed are adequate and he agrees to perform the tracheostomy. He further testified regarding the plan of care.

Dr. Manthei was examined on re-cross by Counsel Peterson.

Dr. Manthei testified he has not obtained all of the medical record from Saint Mary's. He is not going to continue to treat Ms. Hailu after the procedure. He understands the assumption that based on Dr. Heide's findings Ms. Hailu is brain dead but he is not willing to make a clinical judgement on the assumption. He did not get a degree in college and went in to medical school early. He is not a member of the American Medical Association. Based on information from Dr. Byrne a tracheostomy would benefit Ms. Hailu's

CONTINUED EMERGENCY HEARING

airway. He did not read the medical records separate from Dr. Byrne's before reaching that medical conclusion. His conclusion could change after reading all of the records.

Counsel O'Mara stated he did not make prior arrangements to have the co-guardian present.

Mr. Gebreyes remained under oath and was directly examined by Counsel O'Mara.

Mr. Gebreyes testified he spoke with the co-guardian. The co-guardian agrees with the proposed plan of care for Ms. Hailu. He is in agreement with the plan to continue care for Ms. Hailu.

Mr. Gebreyes was cross-examined by Counsel Peterson.

Mr. Gebreyes testified the co-guardian last saw Ms. Hailu in June.

Counsel O'Mara stated he has arranged for the air transport. Medicaid will pay for the hospitalization but has not yet approved the cost of the air transport.

Interest party exhibit 8 was marked.

The Court recessed at 4:22pm to allow for review of exhibit 8 by Counsel O'Mara.

Court reconvened at 4:46pm.

Interested party exhibit 8 was offered and admitted without objection.

Counsel Peterson discussed exhibit 8.

Dr. Anthony Floriani(sp) was sworn to testify and directly examined by Counsel Peterson.

Dr. Floriani testified he is a pulmonary specialist in the ICU and has taken care of Ms. Hailu on a number of occasions including the night she came in after her surgery. He is aware that Dr. Heide's test have determined Ms. Hailu to be brain dead. He is familiar with the test performed on Ms. Hailu as well as the Uniform Determination of Death Act. One of his partners performed the apnea test on Ms. Hailu. Regardless of Ms. Hailu's urine output and other components, the criteria for brain death have been met and continue to be met. He further discussed the major determinants of brain death. Tests determined that Ms. Hailu had not breathing for over ten minutes and her carbon dioxide increased from 40 to over 100 and that is not compatible with brain stem activity and it is not compatible with human life. The guidelines are present so that decisions are not based on opinions. Based on those guidelines his opinion is irrelevant. If you remove Ms. Hailu from life support, she will not breathe and eventually her heart will stop beating. Ms. Hailu's skin look the way it does because she was a beautiful young lady and has gotten excellent care in the hospital. Ms. Hailu has been in a hospital bed for three months and has not had a bedsore. Ms. Hailu meets the criteria for brain death.

Dr. Floriani was cross-examined by Counsel O'Mara.

Dr. Floriani testified regarding exhibit 8. He is not aware of any apnea test done on the 16th. He speculates that Ms. Hailu was declared brain dead on the 16th based on Dr. Heide's exam. He further testified regarding exhibit 8.

Counsel O'Mara provided his closing arguments.

Counsel Peterson provided his closing arguments.

Counsel O'Mara presented further closing arguments.

Counsel O'Mara made an oral motion for further injunction for a period of ten days to appeal to the Supreme Court.

CONTINUED EMERGENCY HEARING

July 21, 2015
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THE COURT ORDERED: The Court's decision will not be based on whether the plan of care was in writing or not. This issue in this matter is whether or not to grant the restraining order. The Interested Party in this case argues that it should not be granted because the medical evidence from Dr. Heide, Dr. Floriani, from the protocols that were followed dictate in every respect, medical standards were met, the outcome and criteria were satisfied in terms of the statute, the protocol was followed, the outcome of the various three step tests under the protocol all direct certification of death and the Court agrees. The Court, in that agreement does not disregard other issues and other evidence. There were five thoughtful doctors who participated in this hearing, Dr. Byrne, Dr. Callister, Dr. Manthei, Dr. Heide, and Dr. Floriani. The Court listened to each statement very closely for several things, other statements negating the substantial evidence the Court has heard of a compelling and credible nature such that that evidence is placed in question, over shadowed, negated, even just placed in doubt. None of the evidence, none, Dr. Byrne, Dr. Callister, and Dr. manthei, none of their opinions do that. Dr. Callister's testimony was very forthright and the Court appreciates it and it was helpful. Dr. Callister referenced the outcome of restorative capacity for Ms. Hailu to be grim, to be remote, and to be a long shot. He indicated that the likely hood of returning any functionality upon the treatment suggested was not likely. He indicated that there was not likely a direct benefit. All of the proposed plans are not likely to result in a benefit that would change the functionality of Ms. Hailu's condition. Dr. Callister indicated that the risk of transfer in and of itself was a risk for Ms. Hailu to the extent of implementing this plan. Dr. Callister agreed that the protocols could not be disputed in terms of their outcomes and the conclusions identified from those outcomes. Dr. Byrne's testimony was just simply inconsistent with the standards of medical practice, insufficiently supported, theoretical, and not sufficient to allow the Court to redirect to even approve the proposal as a non-experimental, appropriate course of treatment for purposes of directly or even potentially redirecting and reconstructing and regaining functionality for Ms. Hailu. Dr. Manthei was very narrow in his testimony, so narrow that the Court really could not rely too much on the information provided. He has concluded that he will conduct one of the two necessary protocols that is theorized to be appropriate for this experimental, or as Dr. Callister suggested, and empirical trial for Ms. Hailu. Dr. Manthei said he would conduct a tracheostomy. He made that statement without reviewing what this Court considers to be the most substantial component of the medical information about Ms. Hailu, which is the medical information from Saint Mary's, from Dr. Heide, from Dr. Floriani, from the results of the various tests. The Court was slightly take back by the level of Dr. Manthei's confidence in the appropriateness of that course of surgery in light of not having recent medical review by anything other than Dr. Byrne who limited his testimony in the first place to a very significant degree. The plan of care is not compelling or convincing to this Court as a best interest plan of care for Ms. Hailu. It is insufficiently supported to a significant degree by the medical evidence which actually overwhelmingly supports by clear and convincing evidence an opposite course of intervention. Not only is the plan not supported by evidence to a sufficient degree to consider this anything other than experimental and not meeting the criteria of experimental protocols that the Court would approve under NRS 159.0805, those protocols are not met. The Court does not find that there is a basis to approve the alternative plan and the Court finds specifically that it is not in Ms. Hailu's best interest. With respect to NRS 449.626(1)(2), Mr. Gebreyes is both Ms. Hailu's father and guardian and the court will look in both of those circumstances to all of the directives of an individual and then to the individuals family however, that statute goes to withholding treatment not to the right to force treatment on a person who has qualified medically and legally to no longer be alive. The Court does not find under the best interest statute and provisions of NRS 159 or under the reference to the right to make those decisions as Counsel O'Mara suggests, and the Court disagrees NRS 449.626 provides, Mr. Gebreyes is not at a place to ask this

CONTINUED EMERGENCY HEARING

**July 21, 2015
HONORABLE
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Dept. No. 12
J. Martin
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Court to force the continued treatment of Ms. Hailu both in his alternative plan or in the desire to refrain from withholding the treatment. The restraining order is denied. The medical evidence substantially establishes by clear and convincing evidence that Ms. Hailu has met the criteria both under the Uniform Act with respect to Declaration of Death at NRS 451.007(1)(b) and (2), those provisions are met. The American Neurological Associations protocols have been thoroughly complied with such that Saint Mary's is not restrained from terminating, withholding, or withdrawing life support system for Ms. Hailu but upon Counsel O'Mara's oral request the Court will consider granting a further injunction pending his appeal to the Supreme Court on his oral motion today. A ten day injunction is granted based on Counsel O'Mara's oral motion.

Counsel Peterson shall prepare the order.

**Minutes Completed
by: J. Martin on
7/24/15**

Exhibits

HEARING: EMERGENCY HEARING

TITLE: **GUARD: ADEN HAILU**

CO-GUARDIAN: **FANUEL GEBREYES**

INTERESTED PARTY: **SAINT MARY'S MEDICAL CENTER**

ATTY: **DAVID O'MARA, ESQ.**

ATTY: **WILLIAM PETERSON, ESQ.**

JANINE PRUPAS, ES.

WARD: **ADEN HAILU**

Case No: **GR15-00125** Dept. No: **12** Clerk: **J. MARTIN**

Date: **7/2/15**

Exhibit No.	Party	Description	Marked	Offered	Admitted
1-A	INTERESTED PARTY	"JUDGE RULES AGAINST BRAIN-DEAD GIRL'S FAMILY" – SF GATE	7/2/15	NO OBJ	7/21/15
1-B	INTERESTED PARTY	"SHE'S VERY MUCH A LIVING PERSON" LIFESITE	7/2/15	NO OBJ	7/21/15
1-C	INTERESTED PARTY	"STORIES FROM THE TRAUMA BOY"	7/2/15	NO OBJ	7/21/15
1-D	INTERESTED PARTY	"JAH I MCMATH, CAN YOU MOVE?" RENEW AMERICA	7/2/15	NO OBJ	7/21/15
1-E	INTERESTED PARTY	"DIRECTIONS TO PROTECT AND PRESERVE LIFE" – LIFE GUARDIAN FOUNDATION	7/2/15	NO OBJ	7/21/15
1-F	INTERESTED PARTY	"EXECUTION IN A NEW YORK HOSPITAL" RENEW AMERICA	7/2/15	NO OBJ	7/21/15
1-G	INTERESTED PARTY	"JAH I IS ALIVE—PRAISE THE LORD AND PASS THE AMMUNITION" RENEW AMERICA	7/2/15	NO OBJ	7/21/15
1-H	INTERESTED PARTY	CHRIST OR CHAOS, DR. PAUL BYRNE'S REFUTATION	7/2/15	NO OBJ	7/21/15
1-I	INTERESTED PARTY	"TRUTH ABOUT ORGAN DONATION"	7/2/15	NO OBJ	7/21/15
2	INTERESTED PARTY	"QUINLAN RE-EXAMINED" RENEW AMERICA	7/2/15	NO OBJ	7/21/15
3	INTERESTED PARTY	"MORPHOLOGICAL AND FUNCTIONAL ALTERATIONS OF THE HYPOTHALAMIC-PITUITARY SYSTEM" SPRINGER LINK	7/2/15	NO OBJ	7/21/15
4	INTERESTED PARTY	SM PLUM PROGRESS NOTE	7/2/15	NO OBJ	7/21/15

Exhibits

HEARING: EMERGENCY HEARING

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WARD: **ADEN HAILU**

Case No: **GR15-00125** Dept. No: **12** Clerk: **J. MARTIN**

Date: **7/2/15**

Exhibit No.	Party	Description	Marked	Offered	Admitted
5	INTERESTED PARTY	ASSESSMENT/PLAN	7/2/15	NO OBJ	7/21/15
6	INTERESTED PARTY	PROGRESS NOTES FOR ADEN HAILU	7/2/15	NO OBJ	7/21/15
7	INTERESTED PARTY	DECLARATION IN SUPPORT OF PETITION OF ORDER AUTHORIZING MEDICAL TREATMENT, RESTRAINING ORDER AND PERMANENT INJUNCTION	7/2/15	NO OBJ	7/21/15
8	INTERESTED PARTY	BIO-ETHICS CONSULTATION	7/21/15	NO OBJ	7/21/15
A	GUARDIAN	T. BRIAN CALLISTER, MD CURRICULUM VITAE	7/21/15	NO OBJ	7/21/15
B	GUARDIAN	SCOTT MANTHEI CURRICULUM VITAE	7/21/15	NO OBJ	7/21/15

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Nevada Supreme Court
201 S. Carson Street
Carson City, NV 89701

MEMO

Fanuel Gebreyes (Aden Hailu) GR15-00125

Paul O'Mara

AUTHORIZED SIGNATURE

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