

Circuit Court for Baltimore County  
Case No. 03-T-19-000037

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 1658

September Term, 2023

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IN THE MATTER OF LUCILLE DUNLAP

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Berger,  
Albright,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Berger, J.

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Filed: December 16, 2024

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This case concerns the removal of appellant, Florence Foster (“Ms. Foster”) as guardian of the person for her mother, Lucille Dunlap (“Ms. Dunlap”). Ms. Foster and Terry Sullivan (“Ms. Sullivan”), the guardian of the property for Ms. Dunlap, each filed motions to remove one another from their guardianship positions. Following a hearing in the Circuit Court for Baltimore County on September 21, 2023, Ms. Foster was removed as guardian of the person for Ms. Dunlap and replaced by the Baltimore County Department of Aging (“Department”). The court declined to remove Ms. Sullivan as guardian of the property. Ms. Foster timely appealed, requesting review only of her removal as guardian of the person for Ms. Dunlap.

### **QUESTIONS PRESENTED**

Ms. Foster presents one question for our review, which we have recast and rephrased as follows:<sup>1</sup>

Whether the trial court erred when it removed Ms. Foster as the guardian of the person for her mother, Ms. Dunlap.

For the following reasons, we affirm.

### **BACKGROUND**

In 2015, the Circuit Court for Prince George’s County appointed Ms. Foster as co-guardian of the person for her mother, Ms. Dunlap, along with her brother, Reginald

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<sup>1</sup> Ms. Foster phrased the question as follows:

Whether the trial court erred when it found, despite a lack of evidence, that good cause existed to terminate Appellant as guardian of the person for her mother, Ms. Lucille Dunlap, and then appointed the Department of Aging as guardian of the person.

Dunlap.<sup>2</sup> In February 2019, the case was transferred to Baltimore County, and Ms. Sullivan was appointed guardian of the property for Ms. Dunlap. Ms. Dunlap has Alzheimer’s and dementia, and from February 2019 to July 2023, resided at Inspirations Assisted Living Memory Care (“Inspirations”).

Throughout Ms. Dunlap’s time at Inspirations, Ms. Foster had a difficult relationship with Inspirations staff, allegedly yelling at staff members on multiple occasions. In one instance, Ms. Foster found clothing that did not belong to her mother in Ms. Dunlap’s room. Ms. Foster began throwing the clothing out of the room and yelling at Inspirations staff, which may have upset other residents. Ms. Foster also allegedly refused to allow Inspirations to administer medication that would ease the combativeness that Ms. Dunlap suffers from due to her dementia and Alzheimer’s.

On July 6, 2023, Ms. Dunlap fell while at Inspirations and suffered a head injury. Inspirations staff contacted Ms. Foster to inform her about Ms. Dunlap’s injury and stated that an ambulance would be called. Ms. Foster objected, and requested to drive Ms. Dunlap to the hospital herself, as she worked near the Inspirations facility. Inspirations staff initially agreed, however, approximately 10-15 minutes later when Ms. Foster still had not arrived, an ambulance was called to transport Ms. Dunlap to St. Joseph’s Medical Center (“St. Joseph’s”). While Ms. Dunlap was at St. Joseph’s, Inspirations attempted to complete an assessment of Ms. Dunlap’s condition in order to permit her return to the Inspirations facility. Ms. Foster, however, refused to permit St. Joseph’s to release any medical

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<sup>2</sup> Reginald Dunlap was removed as co-guardian at the September 21, 2023 hearing.

information about Ms. Dunlap. Because it was unable to complete an assessment, Inspirations terminated its residency agreement with Ms. Dunlap on July 13, 2023. Amanda Agarwal, a social worker at St. Joseph's, testified at the September 21, 2023 hearing that a discharge order for Ms. Dunlap had been placed on July 12, 2023, and had Ms. Foster cooperated, Ms. Dunlap could have returned to Inspirations at that time. Ms. Dunlap instead remained at St. Joseph's for several months until after the September 21, 2023 hearing.

The St. Joseph's staff also had a difficult relationship with Ms. Foster, indicating that Ms. Foster unplugged the nurse call button and closed the door to Ms. Dunlap's room for privacy, despite the nurses' requests that the door remained open and call button plugged in for Ms. Dunlap's safety. Ms. Foster also once removed Ms. Dunlap from the hospital premises for 90 minutes without permission and refused to inform St. Joseph's staff where she and Ms. Dunlap had gone upon their return.

While Ms. Dunlap was at St. Joseph's, Ms. Foster attempted to find an alternative placement for her mother. Ms. Foster claims that on multiple occasions, she found placements that were suitable for Ms. Dunlap, and attempted to remit payment from Ms. Sullivan, only to be refused. One such placement was Peaceful Serenity, which, according to Ms. Sullivan, would not provide the appropriate care for Ms. Dunlap. Ms. Agarwal testified that she attempted to connect Ms. Foster with appropriate placements. Nonetheless, Ms. Foster stopped responding to telephone calls and emails and refused to follow up with the placements.

Ms. Foster filed a petition to remove Ms. Sullivan as guardian of the property. Thereafter, Ms. Sullivan responded with a petition to remove Ms. Foster as guardian of the person of Ms. Dunlap. The court heard testimony from Ms. Foster, Ms. Sullivan, Inspirations staff, Ms. Agarwal, and Asheima Parkinson, the owner of Peaceful Serenity. Ms. Sullivan, Inspirations Staff, and Ms. Agarwal all testified that Ms. Foster was not an appropriate guardian for Ms. Dunlap at the time of the hearing due to her uncooperative behavior towards all others caring for Ms. Dunlap and Ms. Dunlap's continued residence at St. Joseph's where she was not receiving appropriate care.

The court emphasized that Ms. Foster was acting as a strong advocate and cared deeply for her mother, but she was not acting in Ms. Dunlap's best interest. The court removed Ms. Foster as guardian of the person, articulating its findings as follows:

[T]he real question is who should be in a position to make medical decisions at this really critical time, and whether there's good cause for removal at this time of the current guardian of person because of an inability to make sound and rational medical decisions on behalf of Ms. Dunlap at a time when those decisions are so very critical.

And if there were nothing else, the fact that Ms. Dunlap has languished for months in a hospital, which by all accounts, including Ms. Foster's, is not in her best interest. That decision alone would be sufficient for the court to find good cause to remove the current guardian of person.

Ms. Dunlap is not where she should be for both her care and her long term health and welfare. And to remain where she is because of the difficult nature of the making of the decisions that must be made is simply not justified at this time.

And therefore the court does find that good cause has been shown through credible witnesses, as well as the report of the investigator, to remove the current guardian of person, who

can still advocate, and love, and do all that she does for her mother, but to allow the department to step in as is required and necessary, good cause having been shown to make these decisions in Ms. Dunlap's best interest. And that's the court's determination at this time.

The Department was appointed as guardian of Ms. Dunlap's person in Ms. Foster's place. Ms. Foster appealed.

### STANDARD OF REVIEW

We have previously described our standard of review when considering the appointment of adult guardians. *See In the Matter of Meddings*, 244 Md. App. 204, 220 (2019). There, we stated:

[I]n reviewing whether a circuit court properly decided to appoint a guardian for an adult, we adopt a tri-partite and interrelated standard of review. Factual findings will be reviewed for clear error, while purely legal determinations will be reviewed without deference, unless the error be harmless. As to the ultimate conclusion of whether an adult guardianship is appropriate, the circuit court's decision will not be disturbed unless there has been a clear abuse of discretion.

*Id.* In *Meek v. Linton*, we extended this standard of review to apply when a higher priority guardian under Md. Code (1974, 2022 Repl. Vol.) § 13-707 of the Estates & Trusts Article ("E.T.") was passed over in favor of a lower priority guardian. 245 Md. App. 689, 711 (2020). In our view, the same standard applies when a guardian has been removed from his or her appointed position. As such, in reviewing a circuit court's decision to remove a guardian, factual findings are reviewed for clear error, legal determinations are reviewed *de novo*, and the ultimate conclusion of whether a guardian should be removed is reviewed for abuse of discretion.

Clear error review is highly deferential, and “[i]f there is any competent and material evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous.” *Meddings*, 244 Md. App. at 218 (quoting *L.W. Wolfe Enterprises, Inc. v. Maryland National Golf, L.P.*, 165 Md. App. 339, 343 (2005)). We are “limited to deciding whether the circuit court’s factual findings were supported by substantial evidence in the record.” *L.W. Wolfe*, 165 Md. App. at 343.

“There is an abuse of discretion ‘where no reasonable person would take the view adopted by the [trial] court,’ or when the court ‘acts without reference to any guiding rules or principles.’ An abuse of discretion may also be found where the ruling under consideration is ‘clearly against the logic and effect of facts and inferences before the court.’” *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (citations omitted).

## DISCUSSION

### **I. The trial court did not err when it removed Ms. Foster as guardian of the person for Ms. Dunlap.**

Ms. Foster argues that the trial court erred when it found that there was “good cause” to remove her as the guardian of the person for her mother, Ms. Dunlap. Appellee, Ms. Dunlap, counters that there was sufficient evidence presented to the court to support the finding that it was in Ms. Dunlap’s best interest to remove Ms. Foster as guardian of the person.

Maryland Rule 10-208 outlines the processes for removal of a guardian of the person, noting that an interested party may file a petition with the court stating the reasons

for removal, and the court shall conduct a hearing to determine whether the guardian of the person should be removed. Md. Rule 10-208(b)-(c). The rule further provides that “[i]f the court finds grounds for removal, it may remove the guardian and appoint a substituted or successor guardian as provided in Rule 10-207.” Md. Rule 10-208(d) (emphasis added). Maryland Rule 10-207 provides that after a guardian resigns, he or she may request a particular successor guardian, or the court may appoint a successor guardian on its own initiative. Md. Rule 10-207(a). Maryland Rule 10-208 does not define “grounds for removal.”

The Estates & Trusts Article also addresses guardianships of the person. E.T. § 13-707 lists, in order of priority, who shall be appointed guardian of the person. Although certain individuals have priority, the statute makes clear that “[f]or good cause, the court may pass over a person with priority and appoint a person with a lower priority.” E.T. § 13-707(c)(1)(ii). The Estates & Trusts Article does not address the removal of a guardian of the person.

Reading the relevant rules and statutes together, the “grounds for removal” required by Maryland Rule 10-208(d) is akin to the “good cause” standard referenced in E.T. § 13-707(c)(1)(ii). If an individual of higher priority may be passed over for good cause for an individual of lower priority, it follows that an individual could also be removed for good cause. We, therefore, hold that a court may remove an acting guardian of the person for a disabled adult upon a finding of good cause.



Ms. Foster argues that Maryland Rule 10-209(c), which outlines when the termination of a guardianship of a person requires notice, should govern her removal.

Maryland Rule 10-209(c) provides in relevant part:

(c) Termination requiring notice.

(1) Cause for termination. A guardianship of the person may be terminated upon the filing of a petition in accordance with this section if the court, after notice and hearing, finds that any of the following grounds exist:

(A) the cessation of the disability;

(B) the emancipation of a minor who has not attained the age of majority; or

(C) any other good cause for termination.

Md. Rule 10-209(c). Ms. Foster claims that Maryland Rule 10-209(c) governs the removal of a particular guardian of the person, and, therefore, the court must determine whether there was a good cause for the removal. Maryland Rule 10-209 is not applicable to Ms. Foster's case because it contemplates the termination of the guardianship as a whole, when a ward no longer requires a guardian. Indeed, the rule does not govern in instances where a particular individual's role as guardian should be terminated because he or she is no longer acting in the ward's best interest. Moreover, assuming *arguendo* that Maryland Rule 10-209 was somehow applicable, it again references termination for "good cause," which is the appropriate standard for removing the guardian of a disabled adult.

Our opinion in *Meek v. Linton* is particularly useful in determining what constitutes good cause. 245 Md. App. 689 (2020). In *Meek*, the individual at issue, Mrs. Hansen, had appointed her daughter, Ms. Meek, to serve as her attorney-in-fact in a Durable Power of

Attorney and as her health care agent in an Advance Health Care Directive. *Meek*, 245 Md. App. at 694. After Ms. Meek attempted to move Mrs. Hansen out of her home and into an assisted living facility, Mrs. Hansen’s son, Mr. Linton, filed a petition to appoint a guardian of the person of Mrs. Hansen. *Id.* at 699-700. The court granted the petition, naming Mr. Linton as Mrs. Hansen’s guardian, although Ms. Meek retained higher priority under E.T. § 13-707(a) because she had been named as attorney-in-fact and a health care agent. *Id.* at 710, 718. This Court affirmed on appeal, holding that “‘good cause’ under E.T. § 13-707(c)(1)(ii) means a substantial reason to find that a person with lower priority under E.T. § 13-707(a) is a better choice than a person with higher priority to act in the best interest of the ward.” *Id.* at 723.

Ms. Foster argues that *Meek* should not apply, as the court analyzed good cause as particularly contemplated by E.T. § 13-707(c)(1)(ii). When considering adult guardianship cases, however, the removal and replacement of an already appointed guardian of the person is not dissimilar from the passing over of a higher priority individual in favor of a lower priority individual. Both are premised on the idea that the individual, perhaps even chosen by the ward, is not acting in the best interest of the ward and should be replaced by an individual who will act in the ward’s best interest. Thus, we look to the reasons articulated by the court and “determine whether the reasons and any factual findings underlying those reasons are supported by competent evidence and then determine whether the reasons support the conclusion” that the Department “is the better choice to act in the best interest” of Ms. Dunlap. *Meek*, 245 Md. App. at 723.

Here, the court found that Ms. Foster’s actions, particularly in keeping Ms. Dunlap at St. Joseph’s for several months preventing Ms. Dunlap from receiving the care she needed, was not in her best interest. Notably, the court stated “[t]hat decision alone would be sufficient for the court to find good cause to remove the current guardian of person.” The court based this finding on testimony from multiple individuals involved in Ms. Dunlap’s care. In addition to Ms. Dunlap’s inappropriately lengthy stay at St. Joseph’s, the court heard testimony regarding the difficulties that multiple staff members and Ms. Sullivan have encountered when attempting to provide care for Ms. Dunlap. To be clear, it would be improper for a care facility to take measures to remove a guardian it simply did not agree with. Nonetheless, the trial court properly exercised its discretion under the circumstances of this case to remove Ms. Foster as the guardian of the person.

As the court properly noted, Ms. Foster clearly cares deeply for her mother. We acknowledge Ms. Foster’s zealous advocacy and protection of her mother and understand that her actions may have been well-intentioned; however, the decisions that she was making were not adequately serving Ms. Dunlap’s medical needs. The trial court appropriately balanced Ms. Foster’s care for her mother with the necessity of serving Ms. Dunlap’s medical needs. Accordingly, there was “substantial evidence in the record” to support the finding that Ms. Foster was not acting in Ms. Dunlap’s best interest. *L.W. Wolfe*, 165 Md. App. at 343. Therefore, it was certainly not “against the logic and effect of facts and inferences before the court” to remove Ms. Foster as guardian of Ms. Dunlap’s person. *In re Adoption/Guardianship No. 3598*, 347 Md. at 312.

Accordingly, the trial court did not err in determining that good cause existed to remove Ms. Foster as guardian of the person of Ms. Dunlap and appointing the Department of Aging in Ms. Foster's place. We, therefore, affirm.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**