

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1934**

In re the Guardianship of:
Kevin Andrews.

**Filed January 19, 2021
Affirmed
Ross, Judge**

Carlton County District Court
File No. 09-PR-08-3623

Sandra Crofton, Milan, Minnesota (pro se appellant)

Rex W. Laaksonen, Cloquet, Minnesota (for respondent Kevin Andrews)

Nancy Pilger, Willow River, Minnesota (pro se respondent guardian)

Lauri A. Ketola, Carlton County Attorney, Michael J. Boese, Assistant County Attorney,
Carlton, Minnesota (for respondent Carlton County Human Services)

Considered and decided by Ross, Presiding Judge; Florey, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Sandra Crofton's mentally ill ward and son, Kevin Andrews, resides in an adult foster-care facility but was in her home for a week during which his unsupervised overconsumption of water required him to be hospitalized. Crofton appeals from the district court's decisions to terminate her guardianship and appoint a different guardian. Because the record supports both decisions, we affirm.

FACTS

Fifty-five-year-old Kevin Andrews suffers from schizophrenia, severe delusions, paranoia, “does not experience days or even hours of coherent thought,” and has a history of troubled behavior: assault, property destruction, elopement, and self-injurious conduct, including polydipsia (excessive consumption of water). Since 2007 Andrews has lived in an adult foster-care home operated by TBI Residential and Community Services and Pathways to Achievement Inc. In 2008, Carlton County successfully petitioned the district court to appoint Andrews a temporary emergency guardian as authorized by statute. *See* Minn. Stat. § 524.5-409, subd. 2 (2018). When the emergency guardianship term expired in March 2009, Andrews’s mother, Sandra Crofton, successfully petitioned the district court to be appointed his permanent guardian.

The record reveals that years of Crofton’s apparently adequate care for Andrews have been followed recently by signs of decline, precipitating the event that culminated in the current dispute. The recent deficiencies include Crofton’s failure to complete important paperwork, to follow physician instructions, to properly administer Andrews’s medical care, and to communicate adequately with his care team.

Failure to Complete Paperwork

Crofton failed in her duty as guardian to complete a personal well-being report for Andrews in 2016 and 2018. In 2017, Crofton filed a well-being report for the date range “04/10/15 to 04/10/17” instead of filing separate reports for 2016 and 2017. The record also contains two copies of a well-being report submitted in 2019 as opposed to different reports for 2018 and 2019. And Crofton failed to complete Andrews’s yearly

medical-assistance and rental-assistance paperwork for 2018, jeopardizing Andrews's medical insurance and medication coverage. Crofton similarly failed to adequately complete the documents necessary to renew Andrews's medical-assistance and rental-assistance benefits for July 2019, errantly writing "N/A" for most of the questions in a benefits-renewal form. This mistake caused Andrews to owe TBI rent that otherwise would have been covered by other sources.

Hospitalizations and Vulnerable-Adult Maltreatment Reports

The county submitted a vulnerable-adult maltreatment report after Crofton failed to submit Andrews's 2018 medical-insurance and housing-assistance forms. A hospital filed another vulnerable-adult maltreatment report arising from Crofton's failure to properly supervise his water consumption. Crofton had taken Andrews to her home for a weeklong visit in July 2019, and Andrews, who has a water-consumption compulsion, twice drank excessive amounts of water resulting in his twice being hospitalized in the same week. During the first hospital stay, medical staff learned that Crofton had withheld some of Andrews's prescribed medicine based on her belief that he was suffering side effects. These circumstances prompted the hospital to file the maltreatment report. Hospital staff noted that Andrews required 24-hour surveillance to meet his basic needs and doubted that Crofton would provide it. But Crofton remained his guardian, and Andrews was therefore discharged into her care.

TBI filed Andrews's third maltreatment report after Crofton took him to a lab in July 2019 to monitor his sodium levels and lab staff witnessed and reported Crofton attempting to administer several unknown, unprescribed pills to him.

Communication Failure

TBI staff tried but failed to reach Crofton for at least three weeks during the summer of 2018, preventing Andrews's psychiatrist from adjusting Andrews's medication and making it difficult for Andrews's social worker Bethany McKeon to communicate with her about concerns over Andrews's sodium levels and housing benefits. Crofton also missed Andrews's 2019 annual review meeting with TBI staff. According to McKeon, Crofton often took a long time to respond to requests or to comply with her guardianship duties. Peggy Hart, Andrews's social worker from 2007 to 2017 and case supervisor since 2017, likewise believed that Crofton failed to timely respond to phone calls, emails, and text messages.

Petition to Appoint a Successor Guardian

Andrews's physician H.C. Chapman authored a physician's statement in July 2019 supporting the appointment of a successor guardian. Dr. Chapman opined that Crofton's "reluctance and/or refusal to adhere to physician's orders greatly [jeopardized Andrews's] health and safety" and that Andrews needed 24-hour supervision to meet his basic needs. The statement also said that Andrews "will drink shower water, rain water, puddles, melt snow, fashion items to make cups to collect water in and has been known to drink from a toilet in order to 'quench his thirst' regardless of the multiple hospitalizations and safety measures in place in his home." The physician concluded that Andrews "continues to require a guardian and an alternate person should be appointed into the guardianship role."

The county petitioned the district court in August 2019 to replace Crofton with Nancy Pilger as guardian, citing the circumstances just outlined. And the district court

conducted a trial in September 2019, at which McKeon, Pilger, and Hart testified about them. Crofton did not appear as a witness, but she appeared as a party and made many fact statements as she examined and cross-examined witnesses. The district court found that Crofton failed to adequately care for Andrews and appointed Pilger as his successor guardian. This appeal follows.

DECISION

Crofton challenges the district court's findings and contends that the county's allegations are false. The district court has discretion to appoint and remove a guardian, and we will not alter the appointment unless the district court clearly abused that discretion. *In re Guardianship of Autio*, 747 N.W.2d 600, 603 (Minn. App. 2008); *In re Guardianship of DeYoung*, 801 N.W.2d 211, 216 (Minn. App. 2011). We review a district court's order appointing or removing a guardian to determine whether it relies on clearly erroneous factual findings, duly regarding the district court's credibility assessment. *See In re Guardianship of Wells*, 733 N.W.2d 506, 510 (Minn. App. 2007), *review denied* (Minn. Sept. 18, 2007). A finding is clearly erroneous if the record does not support it. *See In re Guardianship of Doyle*, 778 N.W.2d 342, 352 (Minn. App. 2010). Crofton does not establish that the district court abused its discretion by removing her and appointing Pilger.

The district court implicitly credited the allegations in the county's petition and disbelieved Crofton, accepting the petition's allegations that Crofton failed to adequately supervise Andrews's healthcare or complete important paperwork. *See Wells*, 733 N.W.2d at 510. The record supports the district court's findings that Crofton failed to adequately care for Andrews. Guardians must report on the condition of their ward at least annually.

Minn. Stat. § 524.5-316(a) (2018). If a guardian fails to do so, “the court may . . . remove” the person as guardian. *Id.* That Crofton failed to submit an annual well-being report for Andrews on more than one occasion provides ample support for the district court’s decision to remove her as guardian. The other problems outlined above and credited by the district court justify the decision further.

The district court also did not abuse its discretion by appointing Pilger to succeed Crofton. Any interested party may petition to remove a guardian and include in the petition a request to appoint a successor guardian. Minn. Stat. § 524.5-112(b) (2018). The district court received only one candidate to serve as successor guardian—Pilger. Crofton said during the hearing that she wanted a friend of hers to serve as her successor, but Crofton never filed a petition for anyone’s appointment. The record indicates Pilger’s credentials as a guardian with experience working with disabled wards and completing medical- and rent-assistance paperwork. We are satisfied that the district court acted within its discretion by appointing Pilger to succeed Crofton as guardian.

Our holding that the district court acted within its discretion by terminating Crofton’s guardianship and appointing Pilger generally makes it unnecessary to address Crofton’s related arguments, with two exceptions. First, we have reviewed the record and conclude that Crofton received sufficient notice of the termination hearing under Minnesota Statutes, section 524.5-113(a) (2018). Second, the record undermines Crofton’s assertion that the principals who supported the guardianship change were motivated by Crofton’s alleged mental incapacity rather than problems in her caregiving.

Affirmed.