

Court: Not forcing nursing care isn't neglect

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SEATTLE — The Washington Supreme Court on Thursday ruled the guardian of an elderly Pierce County woman was not negligent when she didn't force her into a nursing home against her wishes.

The court explained in the unanimous ruling that even if the bed-bound woman could have gotten better care in such an institution, she should not have been forced to move into one. Following her wishes was not neglect.

In a unanimous ruling, the Supreme Court reversed a decision by the Washington Court of Appeals, citing the Legislature's mandate against placing incapacitated persons against their will.

The court did not agree with the guardian, however, that she was entitled to be reimbursed for her attorney's fees. The justices said the Department of Social and Health Services was justified in its investigation, but incorrect in its findings.

The elderly woman, whom the court calls Ida in its ruling, is described as a retired nurse with a long history of independence and reliance on naturopathic and alternative medicine. Since a fall that fractured a bone in her knee, she had suffered from chronic pain as well as several serious and debilitating ailments.

"Ida was resistant to medical care and was combative, violent, hostile and uncooperative with her caregivers," Justice Debra L. Stephens wrote in the court's opinion on *Resa Raven v. Department of Social and Health Services*. Her medical history shows ups and downs, including medical crises and episodes of neglect.

She was assigned a guardian, Resa Raven, in 2004, at the age of 83. After reviewing her medical history and talking with Ida and her family, the guardian identified in the ruling as Raven determined that when Ida was competent, she consistently refused to be placed in a nursing home or other long-term care facility.

Ida's health and health care continued to be inconsistent and her behavior continued to be combative, which made keeping caregivers more challenging.

"One of the difficulties of this case from the perspective of Ida's care team is that Ida often required more care than could be delivered in a home setting," Stephens wrote.

"But in matters of consent, though a ward may choose a course of action that would strike many as unreasonable, if the guardian can determine that the ward would choose such an action if competent, the guardian is bound to advocate for that position."

Raven sued the state after DSHS determined she had failed as a guardian and neglected Ida.

The Supreme Court ruling cites previous cases that endorsed a similar ruling, including a decision from 1984 in which a guardian sought a court ruling to force a woman to have a laryngectomy for cancer treatment instead of her preference for radiation.

The court ruled that even though the guardian's preference was more likely to be a successful treatment, it would also likely cause her to lose her vocal chords. The goal was to do what the individual would want if she were competent and understand her options, not what most people would do or what the court believes is the wise thing to do.