

Circuit Court for Wicomico County
Case No. C-22-FM-22-000894

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 889

September Term, 2024

IN THE MATTER OF BETTY DAVIS

Graeff,
Ripken,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: November 14, 2025

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

This is the second appeal filed in this Court by Robert Keith Davis (“Keith”),¹ appellant, in connection with a petition for guardianship of his mother, Betty Davis (“Betty”), an adult disabled person. Robert Russell Davis (“Russell”), Betty’s husband, filed a petition for guardianship of Betty’s person and property, which Peggy Moore and Connie Lewis, appellees and Betty’s sisters, opposed. After Russell’s death, Keith filed a petition of substitute party, requesting that he be appointed guardian of the person and property of Betty. The Circuit Court for Wicomico County appointed MAC, Inc., a corporation, as guardian of the person of Betty.²

On appeal, Keith presents the following questions for this Court’s review, which we have revised slightly:

1. Did the circuit court err in passing over Keith and appointing MAC, Inc., as guardian of the person of Betty?
2. Did the circuit court err when it denied Keith’s motion for a new trial?
3. Did the circuit court err when it denied Keith’s motion to revise the judgment?

For the reasons set forth below, we shall dismiss the appeal as moot.

¹ Because several parties to this matter share the surname “Davis,” we will refer to them by their given names (or, in the case of Robert Russell Davis and Robert Keith Davis, by their middle names) for clarity. We mean no disrespect in doing so.

² The court appointed another person as guardian of the property of Betty. Keith does not challenge this order.

FACTUAL AND PROCEDURAL BACKGROUND

I.

Prior Proceedings

The guardianship proceedings in this case have generated multiple rulings from the circuit court and one prior appeal to this Court. In the first appeal, relating to testamentary documents that Betty had signed, we discussed the procedural history of the case, up to that point. *In re Betty Davis*, No. 1657, Sept. Term, 2023, 2025 WL 1863161 (Md. App. Ct. July 7, 2025). We quote our discussion of those proceedings as follows:

On October 25, 2022, Russell filed a petition for guardianship over the person and property of his wife, Betty, and a petition to require examination for disability, alleging that she was disabled and unable to make decisions for herself. In the petition, Russell alleged that he had lived with Betty, who suffered from, among other things, Alzheimer’s Disease and dementia, in Maryland until March 2022, when he moved to North Carolina. He believed that Betty was then living with one or both of her sisters, Ms. Moore or Ms. Lewis, in Maryland. Russell alleged that Betty had granted him financial power of attorney in 2018, but in December 2020, Betty executed a new will and a new power of attorney to Ms. Moore and Ms. Lewis without his knowledge. The new will made each sister a beneficiary of Betty’s estate in the amount of \$50,000—although neither sister had been mentioned in any previous will—and made them co-executors of Betty’s estate.

Russell further alleged that Ms. Moore and Ms. Lewis had presented Betty as being of sound mind to various institutions, including banks, and had removed gold and silver coins belonging to him from a safe deposit box and placed them in a safe deposit box at another bank in the names of Betty and her sisters. In March 2022, Ms. Moore had “kidnapped” Betty, as he and his son Keith were preparing to move Betty to a home that Russell and Betty owned in North Carolina.

On January 11, 2023, Ms. Moore and Ms. Lewis, joined by Betty, through her attorney, filed a response to the petition to require examination for disability. Betty, through her attorney, filed a response to the guardianship petition, opposing guardianship. Ms. Moore and Ms. Lewis alleged that Betty and Russell had separated on March 15, 2022, after the sisters informed Betty

that Russell and Keith had acted against her best interest by removing money from her accounts without her knowledge or permission by use of a revoked power of attorney and without presenting to the bank any proof of Betty's disability, as required. On that day, when Ms. Moore went to Betty's house to bring Betty to her home, Keith physically restrained Betty in an attempt to keep her from leaving. Keith called the police. On March 16, 2022, Keith filed a protective order against Ms. Moore and Ms. Lewis, and on March 19, 2022, Betty filed a protective order against Keith. Ms. Moore and Ms. Lewis alleged that, since that time, Russell had not contacted Betty in any way, except to try to deliver to her a draft of a marital settlement agreement via his attorney.

Ms. Moore and Ms. Lewis alleged that Russell and Keith also had attempted to transfer funds from Betty's investment account in the amount of approximately \$1.8 million to themselves using the revoked power of attorney. The investment company properly refused that transaction. Moreover, Russell and Keith had failed to provide Betty with the approximately \$205,000 to which she was entitled from the sale of the marital home in Maryland, along with her personal property removed from the home.

Ms. Moore and Ms. Lewis sought to submit to the circuit court, for *in camera* review, Betty's medical records from neurologist Dr. Robert Paschall, concerning her ability to make legal decisions in December 2020, when she executed the testamentary documents in favor of her sisters. Ms. Moore and Ms. Lewis alleged that their power of attorney and advanced medical directive provided a less restrictive alternative by which to handle Betty's financial and health care needs than guardianship.

On February 22, 2023, in the guardianship case, Russell filed a Motion to Declare Void Ab Initio a Will, Power of Attorney, Advance Directive and Living Will and Revocation of a Power of Attorney, alleging that Betty was incompetent to execute those documents. Russell alleged that Betty had been showing cognitive decline for 10 to 12 years, and the documents he sought to have declared void had been drafted behind his back, without his knowledge, and under the undue influence of Ms. Moore and Ms. Lewis.

On April 10, 2023, Ms. Moore and Ms. Lewis moved to dismiss the matter, noting that Russell had died on April 2, 2023. In response, Keith moved to substitute himself as petitioner.

Following an April 26, 2023 hearing, the circuit court appointed a temporary guardian over Betty's property and a temporary guardian over her person. A

May 4, 2023, physician’s certificate indicated that, at that point, Betty suffered from severe cognitive and memory loss and confusion and was no longer capable of participating in legal matters.

On July 20, 2023, Ms. Moore and Ms. Lewis filed a motion for summary judgment regarding the motion to declare void *ab initio* documents executed by [Betty]. They argued that: (1) pursuant to *In re Jacobson*, 256 Md. App 369 (2022), the validity of the will could not be challenged while [Betty] was alive; (2) the validity of the document revoking the 2018 power of attorney to Russell was moot because Russell had died; and (3) there was no genuine dispute of material fact that [Betty] was competent when she executed the December 4, 2020 documents. Ms. Moore and Ms. Lewis attached a physician’s certificate to their motion, which certified that, on September 21, 2021, [Betty] was capable of signing documents, retaining legal counsel, and participating in legal proceedings. They also attached an affidavit from [Betty’s] attorney, Chad R. Lingenfelder, who prepared the December 4, 2020 documents. Mr. Lingenfelder stated that, based on [Betty’s] answers to his questions and her demeanor during their interaction, he concluded that “she was able to understand the substance and legal effect of the documents which were then reviewed with her in detail to confirm her agreement with all of the provisions of same.”

On August 19, 2023, Keith filed an Answer to Motion for Summary [sic] and an Answer to Lewis’ and Moore’s Declaration for Judgment. He asserted that the validity of the will could be challenged prior to [Betty’s] death, and Ms. Moore and Ms. Lewis exerted undue influence and fraud “regarding the preparation” of the documents at issue in the case.

On August 28, 2023, Ms. Moore and Ms. Lewis filed a reply. They alleged that the validity of the will was not subject to challenge during [Betty’s] lifetime, Keith’s response did not establish a genuine issue of material fact “sufficient to oppose” their motion for summary judgment, the validity of the revocation was moot, and the newly asserted claim regarding undue influence and fraud was limited to the issue of the validity of the will, which could not be adjudicated prior to [Betty’s] death.

On September 22, 2023, the circuit court held a hearing. Ms. Moore and Ms. Lewis argued that, pursuant to *In Re Jacobson*, a person challenging a will prior to the testator’s passing has no “standing to do so because the matter is not ripe until the Testator passes,” and at the time of the hearing, [Betty] had not passed. They asserted that the physician’s certificate and affidavit of Mr. Lingenfelder established that there was no material dispute “as to whether or

not [Betty] had capacity in December 2020 to execute those documents,” and no contradictory affidavit was filed to dispute those facts.

Keith argued that the Will could be challenged at any time “because the code section” did not state that “the exclusive way to challenge” a will was after death. He stated that he planned to present evidence that [Betty] “had been hallucinating,” “seeing her dead mother,” and “believed that her dead brother was living in the house with her,” and an expert was going to “testify about the competency and undue influence that was presented on [Betty].”

The court found that, based on the motions before it, there was no material fact in dispute, and Ms. Lewis and Ms. Moore were entitled to judgment as a matter of law. It found that a will “may not be legally challenged prior to the death of the testator,” and therefore, the issue of the validity of [Betty’s] will was not ripe for the court’s determination. The claim regarding the validity of the revocation was moot, given Russell’s death, and no genuine dispute of material fact existed with respect to [Betty’s] competency to execute the additional legal documents at issue. The court stated that it would “issue a declaratory judgment in this case granting summary judgment,” and because the judgment was declaratory, “that fully resolves all matters between the parties at least with regards to these documents.”

In re Davis, 2025 WL 1863161, at *2-4 (footnotes omitted).

II.

Guardianship Proceeding

On October 24, 2023, a month after the court’s ruling regarding the testamentary documents, and after Keith noted an appeal from that ruling, the circuit court held a hearing on the petition for guardianship. At this hearing, the court considered two issues: (1) whether there was a less restrictive alternative that was consistent with the alleged disabled person’s welfare and safety; and (2) if there was not, who had statutory priority under the pertinent statute. *See* Md. Code Ann., Est. & Trusts (“ET”) § 13-207 (2022 Repl. Vol.). The court heard from multiple witnesses, including the parties, police officers who responded to incidents involving the parties, friends, and bank employees.

Keith argued that the power of attorney was not a less restrictive alternative that was consistent with Betty's welfare and safety needs because Ms. Lewis and Ms. Moore abused their powers in various ways. He asserted that he should be appointed as guardian because he had made detailed plans to take care of Betty in North Carolina, but he would forgo those plans if her doctors thought that it was against her needs.

Betty's counsel expressed concern with Ms. Lewis' and Ms. Moore's actions during the time that they had power of attorney. Counsel argued that the court should select Keith as guardian of the person of Betty because he had never engaged in behaviors that isolated his mother from her family.

Ms. Lewis and Ms. Moore argued that, if Keith was appointed as guardian, there would be no guarantee that Betty would remain connected with her family. They also asserted that he had a financial conflict of interest due to a matter related to his father's estate.

After hearing from all the parties involved, the court took the matter under advisement. It requested that a disposition hearing be set.

On November 22, 2023, the circuit court announced its ruling. It stated, as follows:

I do not believe that [Betty's] nomination of Ms. Lewis and Moore are consistent with her welfare and safety needs, and it's for a couple of reasons.

First of all, the evidence adduced during the merits hearing could and does lead me to believe that there was -- objectively, there appears to be breaches of fiduciary duty potentially and self-dealing. When they are nominated -- when they, without -- when they acquiesced, when they acquiesced, and it may be very well that [Betty] expressed objectively a desire to have them appointed as payable on death beneficiaries when she was taken to the banks,

but she's in a demented state. I mean, that's why they're acting as her agent. She's in a demented state....

* * *

The most troubling thing, though, is -- here is that family was important to [Betty], obviously. She was in a long-term relationship with her husband. She is the mother to the Plaintiff in this case, and that was a relationship, that was a familial relationship that deserved to be facilitated and deserved to be preserved, and it was not. It was actually the opposite of preservation of their familial relationship that was in the best interest of the ward. It's the opposite of that.

And so what occurred according to the facts was at some point, Ms. Lewis and Ms. Moore, they took [Betty] to their house and she was kept from a relationship with the husband and with the Plaintiff. And one of their statements was that, [w]ell, [Betty] had a phone, and if she wanted -- she knew the number, and if she wanted to call her son, she could have.

I just found that to be a patently unreasonable position for a person acting as attorney in fact or health care agent for a person. A person who's acting as a guardian really needs to look out for the best interest of the ward, and having them make that decision -- having [Betty] make that decision where she is demented -- and I used that word, that's a very scientific word. It's a medical term. Doctors say sometimes when a person has dementia that they're pleasantly demented. I mean that in a very medically -- medical term, demented.

-- that they were not making decisions that were in her best interest because she was cut off from family members that really should've known where she was. The husband probably should've been able to see her before death. The son was cut off too long for the [c]ourt to think that that was a reasonable thing that should've occurred....

* * *

So then the [c]ourt is forced to look at the estate's and trust's article and decide within the list of priority, well, who is next in line? What does the law say in terms of who should next be appointed to care for [Betty]? And, for good cause, the [c]ourt may pass over a person with priority and appoint a person with lower priority, as you all know.

And so next in line, based upon the facts, would be the disabled person's child, so your client. And the problem with that is there's similar issues with

regard to the [c]ourt's concern that there would be a barrier to access by important people that are important to [Betty's] life, and that includes Connie Moore -- Peggy Moore and Connie Lewis.

Some of the testimony that was adduced during the hearing is that there's acrimony. There's a lot of water that's flowed under the bridge, and there's acrimony -- at least during the time of that hearing, there was acrimony. And I'll say one quote that was just really -- not really a good look for your client, Mr. Watson, was when he called them "them bitches." And I'm sorry to use that language in my courtroom, but I have to use what was factually used.

The [c]ourt just can't have a barrier between Peggy Moore and Ms. [Lewis] because I just think that that is an important relationship. She did appoint them as her agents when she was of sound mind, but their contact and their relationship with her is equally as important as your client's. And I just fear that if your client has too much control over the person, again, that won't be consistent with her welfare and her safety and that won't be overall in her best interest.

So I believe that's there's ample evidence for the [c]ourt to pass over your client as well as the guardian, and I feel that the facts that have been adduced that MAC has been an appropriate guardian -- they -- in the list of priority.

On January 10, 2024, the court issued its order appointing MAC, Inc., as Guardian of the Person of Betty Davis and Mr. Barrett R. King as Guardian of the Property of Betty Davis. The court issued an amended order on January 18, 2024, which added that, with respect to the guardian's power to consent to medical or professional care, there was an exception "where a medical procedure involves, or would involve, a substantial risk to the life of Betty Davis (in which case such consent or approval must be authorized by this [c]ourt)."

III.

Motions

On December 4, 2023, after the court’s ruling from the bench, but prior to the issuance of the court’s order, Keith filed a motion for a new trial. He argued that the case had not been adequately vetted because the court denied his request to have his expert witnesses testify remotely, and one of his experts failed to appear. Additionally, Keith requested that the court award a new trial to require that Betty’s visits with Ms. Lewis and Ms. Moore be supervised.

That same day, Keith filed a motion to amend judgment, requesting, among other things, that he be appointed guardian of the person of Betty and that Ms. Lewis’ and Ms. Moore’s visits be supervised. On January 18, 2024, the court denied the motion to amend judgment.

On January 29, 2024, Keith filed a motion for a revised judgment based on the amended order, requesting that the court appoint him guardian of the person of Betty, that the court order that Ms. Lewis’ and Ms. Moore’s visits with Betty be supervised, and that the court determine issues relating to \$205,342.38 in another matter. Additionally, Keith filed a motion for a new trial based on the amended order, requesting the same action requested in his other motion.

On March 28, 2024, the court held a hearing on the motion for a new trial. After hearing from all the parties, the court took the matter under advisement, but it stated that, if it granted Keith guardianship, it was clear that Betty’s sisters would never see her again.

Similarly, if it allowed Betty’s sisters to be guardian, then Keith would not have access. The court stated: “So what is best? A neutral third entity, third party entity who is the guardianship of last resort but who is trusted by the law and trusted really by this [c]ourt.”

On June 11, 2024, the court denied Keith’s motion for a new trial and subsequent motion to amend the judgment. It stated that a new trial was not warranted because it would not change the outcome of the case, and the result of the trial was fair and in Betty’s best interest.

On July 3, 2024, Keith filed this appeal.

IV.

Prior Appeal

On July 7, 2025, this Court filed its opinion in the appeal regarding the testamentary documents.³ In that case, Keith argued that the court erred in: (1) denying his motion to declare the will void because the issue regarding its validity was not ripe for adjudication; and (2) in granting summary judgment on his challenge to the validity of the power of attorney and advanced medical directive. *In re Davis*, 2025 WL 1863161, at *2. We dismissed the appeal because the order granting summary judgment was not an appealable order since, at the time it was issued, the petition for guardianship was still pending. *Id.* at *9-10. Additionally, with respect to the validity of the power of attorney and advanced directive, we stated that dismissal was warranted because subsequent events had rendered

³ The appeal regarding the testamentary documents was submitted on brief on November 15, 2024. On March 7, 2025, Keith filed the relevant brief for this appeal. On April 7, 2025, Ms. Lewis and Ms. Moore filed their appellee brief.

the appeal moot. *Id.* at *10-11. We explained that the documents in question were no longer in controversy after Betty’s passing on June 11, 2024. *Id.*

DISCUSSION

Keith contends that the circuit court erred or abused its discretion in passing him over and appointing MAC, Inc., as guardian of the person of Betty, both in its initial ruling and in denying his motions for a new trial and to amend the judgment.⁴ Appellees respond in two ways: (1) this Court should dismiss the appeal as moot; and (2) the circuit court properly appointed MAC, Inc., as guardian of the person of Betty and denied Keith’s post-trial motions.

We begin our analysis by addressing whether the appeal is moot. Generally, this Court does not decide moot questions. *In re Karl H.*, 394 Md. 402, 410 (2006). As we explained in our previous opinion filed in this case,

[a] case or issue is moot when “past facts and occurrences have produced a situation in which, without any future action, any judgment or decree the court might enter would be without effect.” *Sugarloaf All., Inc. v. Frederick Cnty.*, 265 Md. App. 199, 227 (2025) (quoting *La Valle v. La Valle*, 432 Md. 343, 351 (2013)). *See also Tempel v. Murphy*, 202 Md. App. 1, 16 (2011) (“The test for mootness is whether a case presents a controversy between the parties for which the court can fashion an effective remedy.”). “A question presented on appeal is moot ‘if, at the time it is before the court, there is no longer any existing controversy between the parties, so that there is no longer an effective remedy which the court can provide.’” *Sugarloaf All., Inc.*, 265 Md. App. at 227 (quoting *Syed v. Lee*, 488 Md. 537, 578 (2024)).

In re Betty Davis, 2025 WL 1863161, at *5 (footnotes omitted).

⁴ He also asserts, in one sentence, that the court’s decision regarding a companion case involving \$205,342.38 was incorrect. He provides no explanation or authority to support that statement. At oral argument, he withdrew his contention in this regard.

“When a case becomes moot, we order that the appeal or the case be dismissed without expressing our views on the merits of the controversy.” *Mercy Hosp. Inc. v. Jackson*, 306 Md. 556, 562 (1986). Betty’s death clearly moots the issues relating to guardianship of her person as there is no longer any effective remedy this Court could grant. *See, e.g., In re Riddlemoser*, 317 Md. 496, 502 (1989) (appeal in a guardianship case moot where the ward died during the pendency of the appeal). *Accord Rosebrock v. E. Shore Emergency Physicians, LLC*, 221 Md. App. 1, 11 (2015) (a guardianship terminates upon the death of the disabled person), *cert. denied*, 442 Md. 517 (2015).

At oral argument, counsel for Keith acknowledged, appropriately, that the issue on appeal regarding who should have been appointed guardian of the person of Betty is moot based on Betty’s death in June 2024. He argues, however, that the Court should exercise its discretion to consider the case on the merits because the case involves public policy concerns.

Although this Court has discretion to consider a moot issue, we exercise that discretion “only in rare instances which demonstrate the most compelling of circumstances.” *Reyes v. Prince George’s Cnty.*, 281 Md. 279, 297 (1977). For example, we may decide not to dismiss an appeal under the mootness doctrine in a situation where the issue is one of public concern. *See D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 352 (2019); *Trusted Sci. & Tech., Inc. v. Evancich*, 262 Md. App. 621, 641-43, *cert. denied*, 489 Md. 253 (2024). With respect to the public concern exception, “we must be persuaded that there exists an ‘urgency of establishing a rule of future conduct in matters

of important public concern’ which ‘is both imperative and manifest.’” *Green v. Nassif*, 401 Md. 649, 656 (2007) (quoting *Hagerstown Reprod. Health Servs. v. Fritz*, 295 Md. 268, 272 (1983)). We conclude that this exception to the mootness doctrine does not apply here.

Because Betty has passed away, there is no effective remedy we could grant relating to the appointment of a guardian of her person. There is no justification for a departure from the general rule that we do not decide moot issues, and therefore, we decline to exercise our discretion to address the merits of the issues presented on appeal.

**APPEAL DISMISSED AS MOOT. COSTS
TO BE PAID BY APPELLANT.**