

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN RE: ESTATE OF HAROLD M.	:	IN THE SUPERIOR COURT OF
MATHIAS, AN ALLEGED	:	PENNSYLVANIA
INCAPACITATED PERSON	:	
	:	
	:	
APPEAL OF: BETH SHIPLEY	:	No. 1141 WDA 2025
	:	

Appeal from the Orders Entered August 12, 2025
In the Court of Common Pleas of Fayette County
Orphans' Court at No(s): 19-OC-2025

BEFORE: BOWES, J., OLSON, J., and BENDER, P.J.E.

MEMORANDUM BY BOWES, J.:

FILED: September 16, 2026

Beth Shipley ("Appellant") appeals *pro se* from the decisions of the orphans' court to adjudge her father, Harold M. Mathias ("Mr. Mathias"), to be a totally incapacitated person and to appoint Kristy Hosken ("Granddaughter"), rather than Jamieson Mathias ("Nephew"), as the plenary guardian of Mr. Mathias's person and estate. We affirm.

We glean the following background from the certified record. Mr. Mathias, a nonagenarian widower suffering from numerous physical and mental health ailments, resided in his home in Fayette County along with Appellant and Appellant's husband. Appellant also served as Mr. Mathias's attorney-in-fact, as he had appointed her in 2023. Mr. Mathias's other children and their issue, including Granddaughter and her father, did not reside nearby. Closer to his residence was Nephew, the son of Mr. Mathias's deceased brother.

On January 24, 2025, John Howard Knopsnider, II, of the Southwestern Pennsylvania Agency on Aging (“the Agency”), investigated reports of abuse to find Mr. Mathias restrained to a chair in the living room of his home. Mr. Knopsnider’s investigation further led him to an over-fifteen-minute-long video recorded by Appellant, while she watched and told her father no when he pleaded for her help, depicting her husband verbally and physically abusing Mr. Mathias for waking Appellant up before 9:00 a.m. to have his wrist restraints removed so he could get out of bed.¹ **See** N.T. Guardianship Hearing, 8/11/25, at 13-16, Petitioner’s Exhibit 3. As a result, Mr. Mathias was removed from his home and placed in the Laurel Ridge skilled care facility.

On March 26, 2025, the Agency initiated the instant proceedings by filing a petition pursuant to 20 Pa.C.S. § 5511, asking the orphans’ court to adjudicate Mr. Mathias as an incapacitated person and to appoint a plenary guardian of both his person and his estate. The Agency attached to the petition an expert report from a medical doctor, which noted his diagnoses of dementia impacting his long- and short-term memory and opined that Mr. Mathias was totally impaired in the areas of managing his myriad physical

¹ The incident gave rise to criminal charges against Appellant that remained pending during the proceedings in the orphans’ court. The publicly-available docket for the Court of Common Pleas of Fayette County, CP-26-CR-0000810-2025, indicates that on June 11, 2026, Appellant pled guilty to the misdemeanor offenses of conspiracy—abuse of a care-dependent person, simple assault, and conspiracy—harassment. Her probationary sentence included an order that she have no contact with the victim.

health conditions, his finances, and his ability to give informed consent. **See** Petition, 3/26/25, at Exhibit 3. Perceiving no less restrictive options viable, the Agency sought the appointment of a plenary guardian for Mr. Mathias's person and estate and proposed Granddaughter as a qualified candidate.

The orphans' court entered a preliminary order, *inter alia*, naming Granddaughter as Mr. Mathias's emergency limited guardian, appointing a guardian *ad litem* ("GAL") for Mr. Mathias, and scheduling a hearing to show cause why a permanent plenary guardian should not be appointed. Multiple continuances of that hearing were granted both before and after counsel entered an appearance on behalf of Appellant, who filed a petition proposing Nephew as plenary guardian.

The court held the hearing on August 11, 2025. Mr. Mathias did not attend. **Id.** (including sworn statement of medical expert opining that attending the hearing would be harmful to his physical and mental health and well-being). He was represented at the proceeding by his GAL, who conceded his incapacity and need for a plenary guardian. **See** N.T. Guardianship Hearing, 8/11/25, at 10. Also in attendance, and not disputing Mr. Mathias's incapacity, were two representatives of the Agency and its counsel; Granddaughter; Granddaughter's father, who was Mr. Mathias's son; Appellant and her counsel; and Nephew, the son of Mr. Mathias's deceased brother.

In recommending Granddaughter as Mr. Mathias's plenary guardian, the Agency presented its case workers, Mr. Knopsnider and his supervisor, Jacquelyn Staley, along with Granddaughter. Ms. Staley spoke of an ongoing investigation into exploitation of Mr. Mathias during his time with Appellant, including the denial of medical assistance claims due to the transfer of \$17,000 of his assets. Mr. Knopsnider attested to the circumstances of the removal of Mr. Mathias from Appellant's care. Of note, when he began to describe the abuse depicted in the video recorded by Appellant, she objected to his testifying about its contents. ***Id.*** at 15. The court sustained the objection and proposed that, "[r]ather than him describe what his impressions of [the video] are, I'll look at it myself and make my own impressions." ***Id.*** at 16. With no additional objections, the court admitted the flash drive containing the video into evidence to be viewed after the hearing. ***Id.***

Both Agency representatives endorsed the appointment of Granddaughter as Mr. Mathias's plenary guardian. Mr. Knopsnider indicated that she became involved in the case immediately, persistently showed care for his well-being, and was "someone that [the Agency] believe[d] would actually take care of him." ***Id.*** at 19. Ms. Staley confirmed that Granddaughter had an appropriate strategy to ensure "that he has the best care to cover all [the] points on the care plan [provided by the skilled care facility], including 24/7 supervision." ***Id.*** at 30. With Laurel Ridge assuming day-to-day caretaking, both Agency witnesses explained that geographic

proximity to Mr. Mathias was not significant, and that Granddaughter was an appropriate choice although she lived hours away in Ohio. Neither Agency witness had spoken with Nephew about assuming the role of guardian, as he at no point reached out to them.

Granddaughter explained that she was employed as an executive director of a substance abuse treatment program in Ashtabula, Ohio, approximately fifty miles east of Cleveland. Regarding her distance from Mr. Mathias's care facility, Granddaughter explained that she traveled to southwestern Pennsylvania "quite a bit," as she sometimes worked at the program's McKeesport location. **Id.** at 39. She expected to personally visit Mr. Mathias "at least monthly," and implemented a plan by which other family members would visit on a regular basis, including her father and Mr. Mathias's other two living sons, as well as her cousin Levi, who had been seeing Mr. Mathias weekly.² **Id.**

If appointed guardian, Granddaughter intended to maintain Mr. Mathias's skilled facility placement, as his needs were being met "[o]ne hundred percent" there. **Id.** at 30. She expressed her understanding of a guardian's obligations to separately maintain and account for Mr. Mathias's assets and income, and, if he had drafted a will, which was unknown at the time of the hearing, Granddaughter had a responsibility to safeguard it. **Id.**

² Levi's surname is not mentioned. He is Appellant's son.

at 44. She also indicated that, if further investigation established that Mr. Mathias's assets had been wrongfully transferred, she would take steps to remedy it. **Id.** at 43.

On cross-examination, Granddaughter acknowledged that she had twice filed for bankruptcy: once in 2009, as a result of medical bills she had been unable to pay related to an illness, and once at an unidentified time in connection with a prior marriage. **Id.** at 49-53. She maintained that, in her present job as a director of a company, she "handle[s] finances everyday" and would be able to manage those of Mr. Mathias. **Id.** at 20.

Upon questioning by the GAL, Granddaughter offered the following as the reason she should be appointed guardian:

Since this incident has happened, accusation has happened, I am calling to check on [Mr. Mathias] every day. I have visited him numerous times. My family has access to visit him. Levi, [Appellant]'s son, has actually visited [Mr. Mathias] more . . . than he ha[d] been with [Appellant]. We have communicated with [the care facility] daily, I call daily to check up on him. We FaceTime. So we're more involved in what's going on with [Mr. Mathias] and making sure he's taken care of.

Id. at 51. Granddaughter could not speak to Nephew's qualifications, as she had never seen or met him. **Id.** at 52.

Appellant's only witness was Nephew. After working for decades for UPS, Nephew was at the time of the hearing employed by the Area Agency on Aging as a caregiver for his mother. He believed he was also fully capable of handling all Mr. Mathias's needs, including managing his finances "[i]f need

be.”³ **Id.** at 60, 69. He confirmed that he had no involvement with Granddaughter and her side of the family; rather, Appellant was the only one of Mr. Mathias’s children with whom he had a relationship. **Id.** at 64. Nonetheless, he denied that he was beholden to Appellant, insisted that he would encourage the rest of the family to interact with Mr. Mathias, and avowed that he was acting for himself and his late father in offering to serve as guardian.

In this vein, Nephew explained that his father and Mr. Mathias had a close relationship, which led to Mr. Mathias likewise enjoying a strong connection with Nephew, although they only saw each other a few times a year after Nephew’s father died in 2004. **Id.** at 59. Nephew had cared for Mr. Mathias in Nephew’s home on two previous occasions when Appellant had to travel out of town for work. However, Nephew had not seen Mr. Mathias since he last cared for him in December 2024.

Appellant presented no other evidence, but the court indicated that the record would remain open until the end of the week for her to produce a clean criminal background check of Nephew. The court, noting its intention to watch the video later that day and receiving no objections, took the matter under advisement. **Id.** at 70. Notwithstanding the record remaining open, the court

³ Nephew may have filed for bankruptcy in 1994 and was convicted of public drunkenness in 2012. **See** N.T. Guardianship Hearing, 8/11/25, at 61 (“If I had a bankruptcy it was back in, like, 1994.”), 64, 68.

entered an order the following day citing the pending criminal case against Appellant in which Mr. Mathias was the victim, and the fact that she was not permitted to have contact with him as a condition of her bond, as bases to deny her petition to appoint Nephew.

Also on August 12, 2025, the court entered a final order finding that Mr. Mathias was totally incapacitated, that there were insufficient supports available to assist him allowing a less restrictive alternative mechanism than to appoint a plenary guardian of his person and estate on a permanent basis, and selecting Granddaughter as that guardian. The order further revoked all prior powers of attorney executed by Mr. Mathias, granted Granddaughter full access and authority over his finances and medical care, required her to file an inventory within ninety days, and mandated annual reporting.

After Appellant's counsel was granted leave to withdraw his appearance, she *pro se* filed this timely appeal. The orphans' court ordered Appellant to file a Pa.R.A.P. 1925(b) statement of errors complained of on appeal, she complied, and the court authored a Rule 1925(a) opinion.⁴

⁴ In its opinion, the orphans' court initially suggests that this "appeal is defective and Appellant's issues have been waived as she failed to properly serve her notice of appeal and failed to properly serve her concise statement of errors complained of on appeal." Orphans' Court Opinion, 11/6/25, at 2 (citing Pa.R.A.P. 906 (regarding service of the notice of appeal) and Pa.R.A.P. 1925(b)(1) ("The appellant shall file of record the Statement and concurrently shall serve the judge. . . . Service on the judge shall be at the location specified in the order, and shall be either in person, by mail, or by any other means specified in the order.")). We disagree.
(Footnote Continued Next Page)

Appellant states the following questions for our resolution, which we have re-ordered for ease of disposition:

1. Did the orphans' court abuse its discretion and commit an error of law by denying Appellant's proposed choice of guardian, [Nephew], based solely on Appellant's pending criminal matter, without making any finding that the proposed guardian himself was unfit, contrary to 20 Pa.C.S. § 5512.1 and applicable Pennsylvania law?
2. Did the orphans' court err and violate Appellant's right to due process by allowing and considering a video recording submitted after the guardianship hearing, over objection, which was not part of the evidentiary record and was unrelated to the proposed guardian?
3. Did the orphans' court abuse its discretion by crediting speculative and unsupported testimony implying financial misconduct by Appellant, while disregarding testimony that such transactions may have been for legitimate medical purposes?

Regarding Appellant's failure to serve her notice of appeal in accordance with Rule 906, the procedural misstep "does not affect the validity of the appeal, but is subject to such action as the appellate court deems appropriate[.]" **Meadows v. Goodman**, 993 A.2d 912, 914 (Pa.Super. 2010) (quoting Pa.R.A.P. 902) (emphasis omitted). Since Appellant subsequently provided service and it appears all interested parties received notice of Appellant's timely appeal, we deem no action to be necessary.

As for Appellant's failure to serve her Rule 1925(b) statement on the judge concurrent with its filing pursuant to Rule 1925(b)(1), we observe that the court's Rule 1925(b) order does not provide a separate address for such service as mandated by Rule 1925(b)(3)(iii) ("The judge's order directing the filing and service of a Statement shall specify: . . . that the Statement shall be served on the judge pursuant to paragraph (b)(1) and both the place the appellant can serve the Statement in person and the address to which the appellant can mail the Statement."). Rather, it indicates: "Appellant may satisfy Rule 1925(b)(1) by mailing the Statement to the following address: Court Administrator and the Register of Wills of Fayette County, 61 East Main Street, Uniontown, PA, 15401." Order, 9/10/25, at 1. That is the address Appellant indicated on the certificate of service for her statement. As such, Rule 1925(b)(4)(vii) waiver does not apply.

4. Did the orphans' court abuse its discretion by appointing [Granddaughter] as plenary guardian of the person and estate of [Mr.] Mathias despite substantial evidence of unfitness, financial instability, credibility issues, and contradicted sworn testimony?

5. Did the orphans' court err as a matter of law and abuse its discretion by granting [Granddaughter] authority over funeral arrangements and estate-related decisions in direct conflict with [Mr.] Mathias's valid March 2024 will, without making findings necessary to override the ward's expressed testamentary intent?

Appellant's brief at 2 (cleaned up).⁵

We begin with our standard of review:

The appointment of a guardian lies within the discretion of the trial court and will be overturned only upon an abuse of discretion. Discretion must be exercised on the foundation of reason. An abuse of discretion exists when the trial court has rendered a judgment that is manifestly unreasonable, arbitrary, or capricious, has failed to apply the law, or was motivated by partiality, prejudice, bias, or ill will.

In re Duran, 769 A.2d 497, 506 (Pa.Super. 2001) (cleaned up). As for the factual determinations of the orphans' court, we have observed:

⁵ The argument portion of Appellant's brief contains a sixth issue, raising cumulative error, that is not included in her statement of questions and was not presented to the orphans' court in the first instance. Appellant further raises new issues in her reply brief alleging theretofore unasserted claims of legal error and post-appeal occurrences. We address none of those additional questions, as they are not properly before this Court. **See** Pa.R.A.P. 302(a) ("Issues not raised in the trial court are waived and cannot be raised for the first time on appeal."); Pa.R.A.P. 2113 (indicating a reply brief is limited to issues raised by appellees); Pa.R.A.P. 2116(a) ("No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby."); ***In re L.L.N.***, 329 A.3d 691, 696 (Pa.Super. 2024) ("[O]ur review is limited to those facts which are contained in the certified record and what is not contained in the certified record does not exist for purposes of our review." (cleaned up)).

The findings of a judge of the orphans' court division, sitting without a jury, must be accorded the same weight and effect as the verdict of a jury, and will not be reversed by an appellate court in the absence of an abuse of discretion or a lack of evidentiary support. This rule is particularly applicable to findings of fact which are predicated upon the credibility of the witnesses, whom the judge has had the opportunity to hear and observe, and upon the weight given to their testimony. In reviewing the orphans' court's findings, our task is to ensure that the record is free from legal error and to determine if the orphans' court's findings are supported by competent and adequate evidence and are not predicated upon capricious disbelief of competent and credible evidence.

Estate of A.J.M., 308 A.3d 844, 852 (Pa.Super. 2024) (cleaned up).

In her first three questions, Appellant attacks the focus of the orphans' court on the allegations of wrongdoing by her. She assails the quality of the evidence supporting those averments, contending that the insinuation that she was responsible for the transfer of Mr. Mathias's assets both was unsubstantiated by documentary evidence and "was immediately tempered when it was acknowledged on the record that the funds could have been expended for legitimate medical purposes." **See** Appellant's brief at 21. Appellant laments that "the speculative allegation was allowed to linger without factual development or resolution, and the court afforded it weight in assessing Appellant's credibility." **Id.** She further asserts that the abuse allegations against her were "unproven accusations" and that the video of the incident that led to the removal of Mr. Mathias from Appellant's care was "impermissible extra-record evidence" that was not competent to prove her culpability. **Id.** at 19.

Appellant additionally protests that the court rejected Nephew as guardian based solely upon his connection to Appellant rather than upon conducting an independent assessment of Nephew's fitness and making a finding that he was unsuitable. ***Id.*** at 10-12. She claims that the court had predetermined the outcome, as evinced by its issuance of the order before receiving the results of Nephew's background check. ***Id.*** at 11.

None of these arguments entitles Appellant to relief. First, the video created by Appellant documenting her husband's verbal and physical abuse of Mr. Mathias was not *dehors* the record. As noted in our factual recitation, while Appellant objected to Mr. Knopsnider describing what was depicted in the video, she did not object to its admission into evidence for the court to review later. ***Id.*** at 16. Appellant again raised no objection when the court reiterated its intention to review the duly-admitted evidence after the hearing was adjourned. ***Id.*** at 70. Appellant's claim of error as to the admission of the video and the timing of the court's viewing thereof was thus waived.⁶ **See** Pa.R.A.P. 302(a).

⁶ Appellant elsewhere complains that she did not have an opportunity to review the medical expert report upon which the Agency founded its contention that Mr. Mathias was totally incapacitated. **See** Appellant's brief at 20. While Appellant's counsel noted lack of receipt of the report at the hearing, he did not state an objection. Consistent with filing her own petition to have a guardian appointed, Appellant instead confirmed that she did not dispute that Mr. Mathias was incapacitated. **See** N.T. Guardianship Hearing, 8/11/25, at 9-10. Therefore, any notice issue concerning the report is waived. **See** Pa.R.A.P. 302(a).

Furthermore, since Appellant elected not to testify at the hearing to counter any of the accusations, her credibility was not at issue. Nephew's credibility, on the other hand, was relevant, and the orphans' court found it wanting. **See** Orphans' Court Opinion, 11/6/25, at 6. That finding is supported by the record. Appellant was the only family member with whom Nephew had a relationship, because "[s]he's the only one that ever acknowledged me out of that family[.]" N.T. Guardianship Hearing, 8/11/25, at 67. He was adamant in his lack of connection with the rest of Mr. Mathias's family. **Id.** at 62 ("They don't pay attention to me and I don't pay attention to them, really."); **id.** at 64 ("They ain't involved with me and I ain't involved with them."). He had not seen them in decades and did not know where they lived. **Id.** at 64-66. Yet, Nephew denied that his agreement to be Appellant's proposed guardian for Mr. Mathias was to allow her to "be involved behind the scenes," and said he would "most definitely" encourage his estranged family members to have a relationship with Mr. Mathias. **Id.** at 61, 68.

Moreover, Nephew represented that he was "the best suited" to serve as Mr. Mathias's guardian although he had no knowledge of Granddaughter's fitness, and, more significantly, had not seen Mr. Mathias in nearly a year, demonstrated no knowledge of the current extent of his needs, and detailed no plan for his care. **Id.** at 59. Having the benefit of observing Nephew's demeanor as he offered this testimony, the court was free to conclude that

his past actions and attachments were more revealing of the truth than his promises of a different future. **See *Estate of A.J.M.***, 308 A.3d at 852.

Hence, the orphans' court acted within its discretion in determining that, given "the degree of [Mr. Mathias's] incapacity as well as the significant safety concerns and circumstances of him living with Appellant and her husband when he was abused prior to his placement at Laurel Ridge[,] Appellant's "attempt to install [Nephew] was merely a cover for [her] to maintain control of the estate and person of [Mr.] Mathias." Orphans' Court Opinion, 11/6/25, at 4. With these bases for denying Appellant's petition, the pending proof that Nephew passed his criminal background check would have made no difference.

Having resolved the issues concerning the denial of Appellant's petition, we consider her questions related to the court's appointment of Granddaughter as guardian. Appellant first asserts that Granddaughter provided false testimony about her financial history and losing custody of a minor child. **See** Appellant's brief at 14-16. However, she supports these claims with evidence that was not offered or admitted at the hearing or otherwise put before the orphans' court prior to its appointment of Granddaughter, but is included in her reproduced record or documents filed

with the orphans' court after the appealed-from order was entered.⁷ **Id.** As such, these arguments are not properly before this Court, and we shall not consider the evidence. **See In re L.L.N.**, 329 A.3d at 696.

Appellant's final issue concerns the court's purported grant of authority to Granddaughter to override Mr. Mathias's March 2024 will. Appellant maintains that said will names her as executor and gave her authority to make his funeral and burial arrangements. **See** Appellant's brief at 23. She contends that, although the will was acknowledged at the guardianship hearing and the court made no finding that it was invalid or superseded, the court "granted [Granddaughter] sweeping authority over funeral arrangements and permitted her to reserve and expend such sums as she deemed appropriate for that purpose." **Id.**

The only mention of Mr. Mathias's will at the hearing was Granddaughter's testimony that she had been told there was one, but she was not sure because she had never seen it. **See** N.T. Guardianship Hearing, 8/11/25, at 44. Granddaughter affirmed that if there was a will, she had the

⁷ Indeed, Appellant has been a prolific filer since her counsel withdrew, evinced by the multiple supplemental records certified to this Court while the appeal was pending, including a petition to remove Granddaughter as guardian based upon some of the matters Appellant presents in her argument herein. However, since the orphans' court did not have the benefit of this after-produced evidence in making its ruling, it could not have abused its discretion in not considering it.

responsibility to safeguard it. ***Id.*** Appellant did not offer a March 2024 will into evidence.

The August 12, 2025 order delineating Granddaughter's authority as guardian for Mr. Mathias does not speak to his will. However, it does allow Granddaughter to establish a fund for depositing an amount "appropriate for the anticipated expenses of the funeral and final arrangements including a burial plot" and "to disburse said funds in payment of said expenses at the time of [Mr. Mathias's] demise without further authorization or accounting." Appointment Order, 8/12/25, at 3-4 (pagination supplied). The court further permitted Granddaughter to "change beneficiary designations on insurance policies for the sole purpose of funding said funeral and final arrangements[,]" with any excess distributed as part of his estate. ***Id.*** at 4.

From this we discern that there is no claim of error concerning a March 2024 will that is both ripe for disposition and preserved for our review. Should Appellant take issue with Granddaughter's actions on Mr. Mathias's behalf that conflicts with a valid testamentary instrument, we are confident that Appellant will raise it with the orphans' court and may substantiate her claim at that time.

As the orphans' court observed in concluding its Rule 1925(a) opinion:

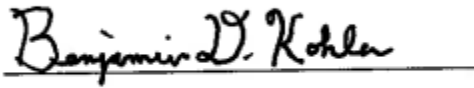
The focus of this case should be on the well-being of [Mr.] Mathias. However, Appellant has shown throughout this proceeding and during the appeal, which she filed rather than [Nephew], that her true concern is maintaining control over [Mr.] Mathias and his assets rather than acting in his best interest. Given the evidence and all reasonable inferences derived therefrom, [the court]

determine[d] that [Granddaughter] was the best choice for guardian of [Mr.] Mathias.

Orphans' Court Opinion, 11/6/25, at 7. Since the record amply supports these findings, we have no cause to disturb its rulings.

Orders affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 9/16/2026