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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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IN THE MATTER OF THE ESTATE OF	)	Appeal from the Circuit Court
GERALDINE T. VOY, an alleged disabled	)	of Winnebago County.
adult,	)	
	)	No. 16-P-457
	)	
	)	Honorable
(Mary Jane Gallo, Petitioner-Appellant, v.	)	Lisa R. Fabiano,
Kathleen Dickenson, co-petitioner-Appellee).	)	Judge, Presiding.

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JUSTICE Birkett delivered the judgment of the court.  
Justices McLaren and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirmed the trial court’s order granting a petition for attorney fees filed by the appellee/co-petitioner in this guardianship case because the appellant/co-petitioner did not have standing to bring the appeal when she was not the guardian of the ward at the time of the ward’s death.

¶ 2 The petitioner, Mary Jane Gallo (Mary Jane), appeals from the trial court’s order granting co-petitioner Kathleen Dickenson’s (Kathleen’s) request for attorney fees payable from the estate of Geraldine Voy. On appeal, Mary Jane argues that the trial court abused its discretion in awarding Kathleen’s attorney \$10,820 in fees. In response, Kathleen contends, among other arguments, that Mary Jane has no standing to bring this appeal. We agree with Kathleen that Mary Jane lacks standing here. Accordingly, we affirm the judgment of the trial court.

¶ 3

### I. BACKGROUND

¶ 4 The record reflects that on October 7, 2016, Mary Jane filed a petition for guardianship of the estate and person of a disabled adult, her aunt, Geraldine Voy (Geraldine). In the petition Mary Jane noted that Geraldine was 87 years old and that she was mentally and physically disabled due to a stroke and dementia.

¶ 5 On December 13, 2016, Kathleen, also a niece of Geraldine, filed a counter petition for adjudication of disability and the appointment of a guardian for Geraldine. In her petition Kathleen noted that on June 6, 2016, Geraldine appointed Barbara Adams (Barbara), Geraldine's deceased husband's niece, as her agent with powers of attorney for both healthcare and property. However, on September 19, 2016, Geraldine appointed Mary Jane as her agent under a power of attorney for healthcare. In that appointment Geraldine did not revoke any prior powers of attorney. Kathleen noted that three weeks after her purported appointment of Mary Jane as her healthcare agent, Mary Jane filed a petition for guardianship of Geraldine's estate and person. Kathleen alleged that Geraldine was easily influenced by various family members and could be induced to sign powers of attorney and other legal documents without fully comprehending the importance of such documents. Kathleen also alleged that it was not in Geraldine's best interest that Mary Jane be appointed as her guardian, and that she was Geraldine's primary caregiver.

¶ 6 Kathleen also claimed that she was qualified and willing to serve as Geraldine's guardian of the person. She noted that Barbara had been handling Geraldine's financial affairs since at least June 6, 2016. Kathleen believed that Barbara was qualified and willing to serve as guardian of Geraldine's estate. Therefore, Kathleen requested that: (1) Geraldine be adjudicated a person with a disability; (2) she be appointed as plenary guardian of Geraldine's person, with authority to investigate and direct Geraldine's medical and day-to-day care; (3) Barbara be appointed as

plenary guardian of Geraldine's estate; and (4) that any powers of attorney previously executed by Geraldine be revoked.

¶ 7 The day after Kathleen filed her petition Barbara filed a "Response to the Counter Petition for Adjudication of Disability and Appointment of Guardian." In her response, Barbara alleged that at the time Geraldine executed a power of attorney to Mary Jane, Geraldine lacked the capacity to do so. She also denied Kathleen's allegation that Kathleen was Geraldine's primary caregiver. Barbara believed that Kathleen was qualified to serve as Geraldine's guardian of the person, but she believed that Kathleen would need assistance to carry out those duties. Finally, Barbara agreed with Kathleen that she was qualified and willing to serve as Geraldine's guardian of the estate. Barbara also alleged that she was also qualified and willing to serve as Geraldine's guardian of the person.

¶ 8 On February 15, 2017, over the objection of Kathleen and Mary Jane, the trial court ordered that Barbara act as Geraldine's temporary guardian of the person. Barbara was given all the powers granted to her under the power of attorney for healthcare executed by Geraldine on June 6, 2016. The court also ordered the parties to refrain from discussing the guardianship proceedings with Geraldine. On June 1, 2017, the trial court appointed Barbara as plenary guardian of the person and estate of Geraldine subject to further hearings and a decision by the court. Geraldine died on July 19, 2017, before a permanent guardian of her person or estate could be appointed.

¶ 9 Kathleen's attorney filed a petition for fees on August 8, 2017. On August 28, 2017, a hearing was held on the petition. In granting Kathleen's petition for fees the trial court said that the petition was well-founded and that the fees generated by Kathleen's attorney benefitted Geraldine's estate. The court said that the GAL was recommending that Kathleen be Geraldine's

guardian based upon conversations with Geraldine. The GAL also told the court that she believed it was in Geraldine's best interest for Kathleen to be awarded guardianship of Geraldine.

¶ 10 Geraldine's attorney also told the court that Geraldine wanted Kathleen to be the guardian of her person. The court said that Kathleen's attorney's hourly rate was within the reasonable range, and based upon the amount of time the attorney worked on this case the total fee was also reasonable. Therefore, the court ordered that Kathleen's attorney's petition for fees in the amount of \$10,820 be granted, over Mary Jane's objection.

¶ 11 On September 22, 2017, Barbara, as plenary guardian, filed her final report. Attached to the report was an accounting of Geraldine's assets, which included her assets and expenses. The report did not list Kathleen's attorney fees as an expense, and the final report was not supplemented.

¶ 12

## II. ANALYSIS

¶ 13 On appeal, Mary Jane argues that the trial court abused its discretion in awarding Kathleen's attorney \$10,820 in fees because: (1) Kathleen was not an agent under a power of attorney for Geraldine or appointed a temporary or plenary guardian for her; and (2) Kathleen did not contribute any benefit to the guardianship estate such that an award of attorneys fees should have been allowed. In response, in addition to other arguments, Kathleen contends that Mary Jane does not have standing to bring this appeal.

¶ 14 In her reply brief, Mary Jane acknowledges that Illinois law provides that an individual who is not the ward's guardian does not have standing to appeal a trial court's decision on behalf of a ward. See *Struck v. Cook County Public Guardian*, 387 Ill. App. 3d 867, 877 (2008) (citing *In re Guardianship of Austin*, 245 Ill. App. 3d 1042, 1047 (1993)). However, she claims that the

instant case is different because it involves three counter petitions for guardianship, all of which were Geraldine's nieces. She notes that although Barbara was appointed a plenary guardian of Geraldine's estate and person that appointment was only done on an interim basis. Since all three petitioners *could have been* appointed as plenary guardian upon the conclusion of the hearing, she stood in the position as a *potential* guardian at the time of filing the appeal. Therefore, she concludes, the facts of this case are distinguishable from *Struck, In re Guardianship of Austin*, and *In re Estate of Henry*, 396 Ill. App. 3d 88, 94 (2009), another case that held that an individual who is not a ward's guardian does not have standing to appeal a trial court's order on behalf of the ward. Since the issue of standing is dispositive of this appeal we will address this issue first.

¶ 15 Standing in Illinois requires "some injury in fact to a legally cognizable interest." *Greer v. Illinois Housing Development Authority*, 122 Ill. 2d 462, 492 (1988). The purpose of the doctrine of standing is to ensure that issues are raised only by those parties with a real interest in the outcome of the controversy (*Wexler v. Wirtz Corp.*, 211 Ill. 2d 18, 23 (2004)) and that courts resolve actual controversies between parties rather than abstract questions or moot issues (*Owner-Operator Independent Drivers Ass'n v. Bower*, 325 Ill. App. 3d 1045, 1050 (2001)). The question of standing is generally reviewed *de novo*. *In re Guardianship of K.R.J.*, 405 Ill. App. 3d 527, 535-36 (2010).

¶ 16 It is well settled law in Illinois that an individual who is not a ward's guardian does not have standing to appeal a trial court's order on behalf of the ward. *Struck v. Cook County Public Guardian*, 387 Ill. App. 3d 867, 877 (2008) (citing *In re Guardianship of Austin*, 245 Ill. App. 3d 1042, 1047 (1993)).

¶ 17 Mary Jane has no standing here to appeal the trial court's order granting Kathleen's attorney \$10,820 in fees. We recognize that in *Struck, In re Guardianship of Austin* and *In re Estate of Henry*, the ward was still alive when the parties filed their respective petitions. However, that fact is a distinction without a difference. The fact remains that a party who is not the guardian of a ward has no standing to appeal a trial court's order on behalf of a ward, or, here, on behalf of the estate of a ward. Simply because there were three *potential* guardians here is irrelevant. Mary Jane does not have a real interest in whether the trial court erred in granting Kathleen's attorney fees for work done in this guardianship proceeding because she was not Geraldine's guardian at the time of her death. Instead, when Geraldine died Barbara was the plenary guardian. Therefore, only Barbara had standing to appeal the trial court's order with regard to Kathleen's attorney's fees and she did not.

¶ 18

### III. CONCLUSION

¶ 19 Since Mary Jane was not appointed a guardian of Geraldine's estate or person at the time of Geraldine's death, she has no standing to bring this appeal. Therefore, we affirm the trial court's order granting Kathleen's attorney \$10,820 in fees.

¶ 20 The judgment of the circuit court of Winnebago County is affirmed.

¶ 21 Affirmed.