



Did I Do That?

Understanding Supports and Services and Alternatives to Guardianship

John B. Henry, III

Attorney & Counselor at Law

www.johnhenrylaw.com

1



Christy Mae

Christy Mae has been living at home with her mom and brother. Christy, over the course of 10 years, has become more and more reclusive and despondent with reality. In fact, at night, she trolls the streets of her east Texas town for hours at a time. She frequents Walmart informing everyone that she is a shareholder. After your first consultation, with the family, what do you do?

2

Harold

Harold has been under guardianship for a period of at least 4 years. He placed under guardianship because he would completely neglect himself and failed to maintain her person and her property. He would stay at home and eat steak and cake while the world around him went on. However, since his stay at an assisted living facility, he has received medication management and feels as though he should be restored to capacity. After your appointed as attorney ad litem, interview your client, and review the request for restoration letter submitted by the guardian, what do you do?

3

Goals of the Presentation

- Understand legislative history
- Review the statutory provisions that incorporate supports and services and alternatives to guardianship
- Discuss recent cases
- Provide a decision tree for considering and determining feasibility of supports and services and alternatives to guardianship
- Explore example scenarios to engage in decision tree analysis

4

Policy and Purpose of Guardianship

*"A court may appoint a guardian with either full or limited authority over an incapacitated person as indicated by the incapacitated person's **actual** (emphasis added) mental or physical limitations and only as necessary to promote and protect the well being of the incapacitated person."* TEX. EST. CODE § 1101.001(a).

5

Policy and Purpose of Guardianship (cont.)

*"In creating a guardianship that gives a guardian limited authority over an incapacitated person, the court **shall** design the guardianship **to encourage the development or maintenance of maximum self-reliance and independence** in the incapacitated person, **including by presuming that the incapacitated person retains capacity to make personal decisions regarding the person's residence.**"* TEX. EST. CODE § 1101.001(b).

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Did I Do That? Understanding Supports and Services and Alternatives to Guardianship

Also available as part of the eCourse

[2020 Estate Planning, Guardianship, and Elder Law eConference](#)

First appeared as part of the conference materials for the

22nd Annual Estate Planning, Guardianship and Elder Law Conference session

"Did I Do That? Understanding Supports and Services and Alternatives to Guardianship"