

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
GUARDIANSHIP OF THE PERSON
AND ESTATE OF ROBERT FISKE, AN
ADULT WARD,

No. 53176

FILED

MAR 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingerson
DEPUTY CLERK

ROBERT FISKE,
Appellant,

vs.

CLARK COUNTY PUBLIC GUARDIAN,
KATHLEEN BUCHANAN,
Respondent.

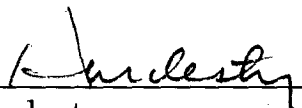
ORDER OF AFFIRMANCE

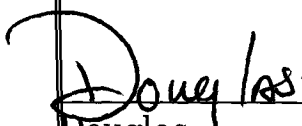
This is an appeal from a district court order adopting and affirming a guardianship commissioner's recommendation to appoint respondent as appellant's permanent guardian and to issue letters of guardianship. Eighth Judicial District Court, Family Court Division, Clark County; T. Arthur Ritchie Jr., Judge.

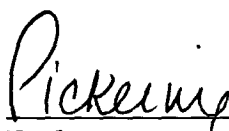
The district court's decision to forgo an evidentiary hearing did not deprive appellant of his due process rights under the circumstances. Callie v. Bowling, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007) (recognizing that procedural due process requires notice and an opportunity to be heard before the government may restrict a person's property or liberty interests); Mathews v. Eldridge, 424 U.S. 319, 334 (1976) (explaining that "due process," unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances" but instead is flexible, calling for "such procedural protections as the particular situation demands"); see also State, Dep't Mtr. Vehicles v. Vezeris, 102 Nev. 232, 236, 720 P.2d 1208, 1211 (1986) (noting that due process is a flexible concept). The guardianship

commissioner conducted three hearings and twice extended the temporary guardianship in order to allow appellant an opportunity to provide evidence that a guardianship was not warranted. Both parties to this appeal were provided with sufficient notice of the hearings, appeared at the hearings, and were given an opportunity to be heard and present evidence. The issues appellant had concerning the guardianship were addressed during a hearing and in the commissioner's report, thus demonstrating that the commissioner considered appellant's concerns in issuing his recommendation. The commissioner specifically noted during the hearing and in his report that four doctors had evaluated appellant, including appellant's treating physician, a physician appellant selected to do an independent evaluation, and two physicians retained by the court, and they all found appellant in need of a guardian. The commissioner further noted that appellant presented no evidence or testimony to refute those reports during the three hearings leading up to the recommendation. Thus, the district court, after considering the report and recommendation and the fact that appellant had presented no evidence to support his assertion that he was not in need of a guardian, did not violate appellant's due process rights by declining to hold an evidentiary hearing on appellant's objections to the report and recommendation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. T. Arthur Ritchie Jr., District Judge, Family Court Division
Law Offices of Tony Liker
Larson & Stephens
Eighth District Court Clerk