

STATE OF MICHIGAN
COURT OF APPEALS

In re BENNIE JOHNSON SPECIAL NEEDS TRUST.

TERI A. JORDAN, Special Fiduciary,

Appellee,

v

TAISHA JOHNSON, Guardian,

Appellant.

UNPUBLISHED
September 16, 2026
12:21 PM

No. 378646
Wayne Probate Court
LC No. 2014-802682-TV

Before: LETICA, P.J., and RICK and GARRETT, JJ.

PER CURIAM.

Appellant, Taisha Johnson, appeals by leave granted¹ the order suspending her as the guardian of BJ and appointing Siporin & Associates as BJ’s temporary guardian. We reverse and remand.

I. FACTS

In 2011, BJ suffered a traumatic brain injury as the result of a motor vehicle accident. BJ’s sister was appointed as his conservator and guardian that same year.² Thereafter, BJ lived with his sister, and even though Taisha is BJ’s biological daughter, BJ’s sister adopted her. Taisha also serves as BJ’s primary caretaker. In 2014, a special needs trust was established for BJ and BJ’s sister was appointed as trustee.

¹ *In re Bennie Johnson Special Needs Trust*, unpublished order of the Court of Appeals, entered February 9, 2026 (Docket No. 378646).

² The guardianship action is Wayne County Probate Court Docket No. 2011-768694-GA and the conservatorship action was Wayne County Probate Court Docket No. 2014-802682-TV.

Years later, BJ's sister was diagnosed with dementia, and in March 2025, Taisha was appointed as BJ's guardian in the guardianship case. Months later, BJ's sister was suspended as BJ's fiduciary in this trust case and the court appointed Teri A. Jordan, appellee, as a special fiduciary on July 30, 2025.

In October 2025, Jordan filed a petition for instruction in this trust case. In part, Jordan alleged that BJ's sister had improperly withdrawn \$45,000 from an estate account which had not been used for BJ's care. Further, Taisha had told Jordan that BJ's sister failed to consistently pay her and other caregivers for their services. Instead, BJ's sister gave money to other family members who did not provide care for BJ. According to Taisha, BJ's sister compensated Taisha by paying her rent and energy bill in addition to \$750 per week for the daily care Taisha provided to BJ from 6 a.m. until noon and from 4 p.m. to midnight. Taisha also told Jordan that BJ's other caregivers were: (1) Taisha's 18-year-old son, who worked from 10 a.m. to 7 p.m., (2) Taisha's 15-year-old daughter, who worked from 5 p.m. to 9 p.m., and (3) BJ's sister's adult son, who worked a full-time job and provided care for BJ from 11 p.m. to 7 a.m. Jordan was "aghast" at this duplicative schedule and the involvement of a minor child. Jordan secured a case manager to assess BJ's needs.³ Jordan also opined that Taisha had a conflict of interest as BJ's guardian and the primary payee of care-provider services.

Jordan sought removal of BJ's sister as trustee, amendment of the trust to allow for the appointment of a successor trustee, and to have BJ's sister return the \$45,000. Jordan also asked the court to opine on the appropriateness of BJ's care providers, the appropriate room-and-board rate for BJ's care, and "direction regarding the appropriateness of the Guardian[']s court-imposed duties coupled with the conflicting duties of a care provider."

It appears that a hearing was scheduled in response to a request for an emergency hearing.⁴ The hearing notice was dated November 25, 2025, and the hearing was scheduled for the next day.

On the morning of the hearing, Taisha's attorney appeared and filed a written objection to Jordan's petition for instruction and moved to strike or disregard the case manager's report. Taisha's attorney specifically objected to the court (1) determining that there was an inherent conflict in serving as both a caregiver and guardian because Michigan recognized the benefit of having relatives provide in-home care, (2) opining on BJ's current placement, (3) determining that

³ After meeting with BJ, Taisha, Taisha's son, and BJ's sister, the case manager proposed either moving BJ to a facility specializing in providing care for patients with traumatic brain injuries or buying a home modified to BJ's needs where he would receive 24/7 attendant care services. If BJ's current placement continued, the consultant recommended that Taisha give up either her guardian or caregiver role due to the "inherent conflict in this type of arrangement[.]"

The case manager discovered that the vehicle modified to transport BJ had license plates that had expired over a year ago. And that Taisha could not provide names for BJ's medical specialists or pharmacy except for his primary care physician. The case manager observed that BJ's sister's presence agitated BJ and that BJ's sister "diverted" "the attention of caregivers paid to provide his care[.]"

⁴ Not all of the documents reflected in the register of actions have been provided for our review.

institutional placement was appropriate, and (4) relying on the case manager's unreliable and biased recommendation. In fact, there was no emergency as to the trust that required the court's immediate action.

At the hearing, a special conservator who had been appointed for BJ's sister reported that Adult Protective Services (APS) had received a complaint regarding financial exploitation of BJ's sister in August of 2025. That is when the guardianship and conservatorship petitions were filed as to BJ's sister. The APS investigation was ongoing and an APS worker contacted the special conservator for BJ's sister on November 25, 2025 to report that there was no food in BJ's sister's home. BJ's sister's special conservator coordinated having a Kroger gift card provided. BJ's special conservator opined that it was concerning that Taisha had called her the prior week to discuss BJ's sister's inability to access her bank accounts but never mentioned the lack of food. It was also reported that others were driving BJ's sister to various banks, where BJ's sister demanded access to her funds. BJ's sister had income from Social Security, a pension, investments, and a separate rental property. Moreover, several of BJ's sister's family members, including Taisha were driving vehicles owned by BJ's sister despite BJ's sister's special conservator being unaware of whether BJ's sister drove. Moreover, BJ's sister's special conservator had received a delinquent bill on the vehicle Taisha used.

Taisha's attorney argued that she had received the emergency petition for instruction at about 4 p.m. on November 25 and filed an answer at 8:30 a.m. before the hearing that began at 9:42 a.m. Taisha's attorney asserted that there was no emergency in this trust case and that the required statutory notice had not been provided to all interested parties. Further, there was no conflict of interest when a guardian received fees for providing services and the case manager's report was unreliable. In fact, Taisha had provided care for BJ for 14 years without issue and she continued to provide care for BJ despite not being paid for five months.

Jordan did not dispute that matters had gone smoothly before BJ's sister's incapacitation. After BJ's sister's incapacitation, however, Taisha had told Jordan that addressing the issues which arose necessitated Taisha calling the police and APS. Regardless, Jordan had received funds that could be used to pay Taisha for what had been reported to her to be three months of nonpayment for BJ's care. Nevertheless, the care currently being provided for BJ was not safe or beneficial. Instead, it was volatile with the police and APS being called and Taisha not being paid and having received an eviction notice. Additionally, BJ might not have a home if his sister was unable to remain there with her husband due to their dementia. And Taisha's daughter, a minor should not be paid for services. Moreover, no tax forms were provided to document the payments made to any of BJ's care providers. Although these matters did not involve managing the trust's finances, Jordan described this as "an emergency situation" that she "would be remiss [for] not bringing this situation to" court. Frankly, Taisha, as BJ's guardian, should have brought this information to the court.

Taisha's attorney responded that the references to APS and the police were "speculative" and "unfounded[] hearsay." After Jordan's appointment, there was no ongoing exploitation of BJ's funds. If there was an emergency with respect to BJ's guardianship, then a petition could be properly brought in the guardianship case to address it. At best, the court could limit who was paid for caregiving services. Taisha's attorney even agreed that Taisha's daughter, as a minor, could not be paid as a caregiver. Even so, that decision was made by BJ's sister, not Taisha.

Taisha's attorney then asked the court to set the matter for a full evidentiary hearing if it was not inclined to deny Jordan's petition for instruction.

The probate court observed that it was concerned about minors serving as caregivers as well as a person who worked a full-time day job serving as the nighttime caregiver on top of the APS investigation. The court decided that it would rule on the surcharge motion as to BJ's sister the following week.

Taisha's attorney then asked the court to review the objections she had filed that morning. The court responded that it had listened to her argument; however, the attorney again asked the court to review Tasha's objections before it issued its opinion. The court said that it was moving forward and appointing a temporary guardian.

Taisha's attorney interjected that the petition at issue did not pertain to the guardianship but was a petition for instruction as to the trust. The attorney added that before any modification of BJ's guardianship, a guardian ad litem needed to be appointed.⁵ Taisha's attorney again asked to make a record, which the trial court permitted.

Taisha's attorney repeated that the petition for instruction in the trust case could not affect the guardianship case. Instead, such relief had to be properly pled under the applicable statute and appointment of a guardian ad litem was required. Taisha's attorney thereafter repeated the arguments made in her objections to Jordan's petition for instruction.

Jordan clarified that she had not asked the court to modify the trust. Instead, she had asked the court to opine on: (1) the appropriateness of the caregivers, who were compensated from the trust, (2) the propriety of BJ's current room-and-board costs in his sister's home, and (3) the guardian's court-imposed duties given her "conflicting duties" as a care provider.

The court then reviewed Taisha's written objection. The court decided:

The court, on its own, is suspending temporarily the Fiduciary^[6] [Taisha]. And I am appointing [an attorney] to represent the Ward [BJ], the proposed Ward.

⁵ MCR 5.408(B) provides:

(1) If a petition for modification or written request for modification [of the guardianship] comes from the legally incapacitated individual and that individual does not have an attorney, the court shall immediately appoint an attorney.

(2) If a petition for modification or written request for modification comes from some other party, the court shall appoint a guardian ad litem. If the guardian ad litem ascertains that the legally incapacitated individual contests the relief requested, the court shall appoint an attorney for the legally incapacitated individual and terminate the appointment of the guardian ad litem.

⁶ MCL 700.1104(e) provides that a guardian is a fiduciary.

I'm also appointing, as a Temporary Fiduciary, to go out and do a complete assessment, based on my concerns of what was stated on the record today regarding minors being involved as the care giver, and the concern about the brother [sic nephew] who works all day, that is the care giver at night.

I'll set it for . . . January 14th at 10:30, to have a full hearing. This is only a Temporary Guardianship. I'll appoint Sapporn & Associates to go out and investigate[.]

Taisha's attorney asked if she could object to that appointment. The court explained that that entity would be appointed for now and that could be changed later. Taisha's attorney then asked whether the temporary guardian could remove BJ from his sister's home. The court ruled that BJ would stay in his sister's home and could only be removed after a petition was filed. Even so, the court wanted to ensure that there were adequate funds for BJ's food, electricity, and other necessities. Taisha's attorney then informed the court that while it was in recess, Taisha had sent her about eight photographs showing that the refrigerator and cabinets in BJ's sister's home were fully stocked directly contradicting what was reported by BJ's sister's special conservator. The court said it would "deal with that at the next hearing[.]"

Consistent with its ruling on the record, the court entered an order adjourning the petition, suspending Taisha as guardian, and appointing Siporin and Associates as the temporary guardian to investigate. That same day, Taisha filed an emergency motion for reconsideration to vacate the order suspending her as guardian and appointing a temporary guardian, and for Taisha to be immediately reinstated as BJ's guardian.

On December 1, 2025, Taisha filed an emergency motion to stay the probate court's order suspending her as guardian and appointing a temporary guardian pending appeal. Four days later, the probate court stayed its November 26, 2025 order and reinstated Taisha as BJ's guardian until further order of the court.⁷

On December 12, 2025, Taisha filed an application for leave to appeal with motions for immediate consideration and peremptory reversal in this Court, challenging the probate court's November 26, 2025 order. This Court granted the motion for immediate consideration, denied the motion for peremptory reversal, granted the application for leave to appeal, and expedited the appeal. *In re Bennie Johnson Special Needs Trust*, unpublished order of the Court of Appeals, entered February 9, 2026 (Docket No. 378646).

II. ANALYSIS

Taisha argues that her removal as BJ's guardian violated the Estates and Protected Individuals Code (EPIC), MCL 700.1101 *et seq.*, and due process. We agree that reversal is warranted.

⁷ No order addressing Taisha's motion for reconsideration is contained the probate court file provided to this Court.

A. STANDARDS OF REVIEW

Several standards of review are utilized in probate cases. This Court reviews

the probate court's dispositional rulings for an abuse of discretion. A probate court abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes. We review the probate court's findings of fact for clear error. A factual finding is clearly erroneous when this Court is left with a definite and firm conviction that a mistake has been made. We review de novo any statutory or constitutional interpretation by the probate court. [*In re Guardianship of Gerstler*, 324 Mich App 494, 507; 922 NW2d 168 (2018) (citation and quotation marks omitted).]

B. DISCUSSION

Taisha argues that the court lacked statutory authority to appoint a temporary guardian where there was no showing that she was not effectively performing her duties and that BJ's welfare required immediate action. Taisha also argues that her due-process rights were violated because appropriate notice was not given by the probate court.

The constitutions of Michigan and the United States provide that no person shall be deprived of "life, liberty, or property, without due process of law." US Const Am XIV; Const 1963, art 1, § 17. In part, procedural due process requires "notice and an opportunity to be heard. . . ." *Cary Investments, LLC v Mount Pleasant*, 342 Mich App 304, 315; 994 NW2d 802 (2022) (citation and quotation marks omitted). The procedural due process required varies depending on the type of action, as well as the potential risks and costs, and the interests affected. *In re Bell*, 341 Mich App 596, 607; 991 NW2d 251 (2022).

The hearing notice in the trust case identified it as being about Jordan's "EMERGENCY PETITION FOR INSTRUCTION." Further, Jordan's administrative assistant emailed the hearing's participants advising them to "disregard the Notice of Hearing previously sent for the Petition to Modify Guardianship as it was sent in error. . . ." Jordan's assistant's email added: "There is only one matter scheduled regarding [BJ] tomorrow." That matter was Jordan's petition for instruction.

In Jordan's petition for instruction, Jordan asked the probate court to opine on whether there was potentially a conflict of interest between Taisha's roles as both a primary caregiver and a guardian, on "the appropriateness of the in-home care rendered to [BJ]," seemingly focused the cost of the number of caregivers and their overlapping schedules, the minor status of one caregiver, and BJ's sister's dementia and its effect on BJ's care in her home.

Both guardianship and trust proceedings are within the probate court's subject-matter jurisdiction. MCL 700.1302(b) and (c). But EPIC contains separate articles governing guardianships for incapacitated individuals, MCL 700.5301 *et seq.*, and trusts, MCL 700.7101 *et seq.* Under MCL 700.5311,

(1) In a proceeding for the appointment or removal of an incapacitated individual's guardian, *other than the appointment of a temporary guardian or*

temporary suspension of a guardian, or to designate a standby guardian or change the designated standby guardian, notice of hearing must be given to each of the following:

(a) The ward or the individual alleged to be incapacitated and that individual's spouse, parents, and adult children.

(b) A person who is serving as the guardian or conservator or who has the individual's care and custody.

(c) If known, a person named as attorney in fact under a durable power of attorney.

(d) The standby guardian or the person nominated to be designated as standby guardian.

(e) If no other person is notified under subdivision (a), (b), (c), or (d), at least 1 of the individual's closest adult relatives, if any can be found. [Emphasis added.]

In turn, MCL 700.5312 provides:

(2) If an appointed guardian is not effectively performing the guardian's duties and the court further finds that the legally incapacitated individual's welfare requires immediate action, the court may appoint, *with or without notice*, a temporary guardian for the legally incapacitated individual for a specified period not to exceed 6 months.

(3) A temporary guardian is entitled to the care and custody of the ward, and the authority of a permanent guardian previously appointed by the court is suspended as long as a temporary guardian has authority. A temporary guardian may be removed at any time. A temporary guardian shall make reports as the court requires. In other respects, the provisions of this act concerning guardians apply to temporary guardians. [Emphasis added.]

On appeal, Jordan contends that the probate court acted properly after it concluded that Taisha was "not effectively performing the guardian's duties" and that BJ's "welfare required immediate action[.]" In Jordan's view, MCL 700.5312(2) is clear that the probate court may properly make such a decision without notice. *Id.* See also MCL 700.5311(1). Consequently, in Jordan's view, there can be no due process violation because any opportunity to be heard would be satisfied by the future full hearing scheduled by the probate court.

But it strikes us as odd that the probate court could make both of the required findings in its November 26th⁸ order, and a mere five business days later stay that order and further order that

⁸ The Thanksgiving holiday was on the 27th and the court was closed for two days.

Taisha be reinstated as BJ's guardian. Notably, the probate court also initially ruled that BJ would remain in his sister's home and that BJ could only be removed after a petition was filed. And even though the trial court specifically expressed concern over the minor and nighttime caregivers, it did not remove them. Instead, the probate court ordered the special fiduciary to investigate, assess the situation, and set the next hearing date seven weeks later.

Nor do the parties dispute that BJ required 24/7 attendant care after his accident in 2011. Taisha had only recently assumed BJ's sister's role as BJ's guardian and was BJ's primary caregiver. Taisha purportedly continued the rotation of care providers as instituted by BJ's sister. And Taisha and the others continued to care for BJ even though they were not paid consistently. Taisha also reported BJ's sister's actions to Jordan, talked to BJ's sister's special conservator, and sought the intervention of the police to address issues in BJ's sister's home that affected BJ. These are not the actions of a guardian shirking their duty.⁹

During the hearing, the court also expressed concern about whether there were adequate funds for BJ's food, electricity, and other necessities. The court's subsequent trust order, which it later stayed, included the condition that "[f]unds are to be supplied for food to be furnished in the home." Significantly, Taisha attempted to challenge BJ's special conservator's previously undisclosed report that APS discovered that there was no food in BJ's sister's home. During a recess, Taisha sent her attorney eight photographs of BJ's sister's fully stocked refrigerator and cupboards. When told about these photographs, the court said that they could be presented during the future hearing. This along with the notice provided to Taisha about the limited nature of the hearing in the trust case demonstrates that Taisha was prejudiced by the lack of due process.

In sum, when the probate court opted to sua sponte temporarily suspend Taisha as BJ's guardian, it expressed specific concerns and directed the special fiduciary to investigate. It did not, however, remove BJ from his sister's home, which had been modified to address his needs. Instead, the court left BJ in his current living situation for 50 days, maintaining the status quo until the next hearing. On this record, we conclude that the probate court clearly erred when it determined that Taisha was "not effectively performing the guardian's duties" and that BJ's "welfare required immediate action" under MCL 700.5312(2).

In any event, reversal is also required because Taisha's suspension as guardian and the appointment of a temporary guardian occurred during a proceeding in the trust case, not in the ongoing probate court guardianship case. Stated otherwise, although the order appealed here was entered in the trust case, after a hearing in the trust case on the special fiduciary's petition for

⁹ The probate court did not directly address Jordan's request to opine on whether there was a conflict of interest in Taisha serving both as a guardian and BJ's primary caretaker. We recognize that a conflict of interest may arise if a guardian has dual roles that interfere with their ability to make objective decisions in the best interests of the ward. But, as already discussed, BJ's care arrangements had been in place, Taisha continued to care for BJ even when she was not being compensated, and Taisha continued to work with both the special trustee for BJ and the special conservator for BJ's sister to address issues affecting his care.

instruction regarding certain financial matters, the order's actual import was on the guardianship case.

Our state's " 'collateral bar' rule generally prohibits a litigant from indirectly attacking a prior judgment in a later, *separate* action" *In re Ferranti*, 504 Mich 1, 22; 934 NW2d 610 (2019). If a litigant is prohibited from later attacking a prior judgment in a separate action, it logically follows that a court cannot make a ruling that would be appropriate in one action in a separate action.

MCR 2.602(D) supports this conclusion by requiring that a "signed judgment or order must be placed in the case file." "The" is a definite article reflecting that signed order must be placed in the case file from which it arises, not just any case file. See *Hanton v Hantz Fin Servs, Inc*, 306 Mich App 654, 664; 858 NW2d 481 (2014). In this case, had the probate court entered an order to suspend Taisha as BJ's guardian in a completely unrelated proceeding, it would have plainly erred. Likewise, the fact that the instant trust case was related to the guardianship case is insufficient to circumvent the requirement that an order be entered in the correct case.

Moreover, regardless of whether the probate court had the authority to enter the order it did in the *guardianship* case, the probate court's decision to do so in the *trust* case had due process implications. In probate court proceedings, the "interested persons" are entitled to receive notice of certain hearings. See MCR 5.102 ("A petitioner, fiduciary, or other moving party must cause to be prepared, served, and filed, a notice of hearing for all matters requiring notification of interested persons."); MCL 700.1401(1). And, even if, as argued by Jordan, the probate court had properly suspended Taisha and appointed a temporary guardian under MCL 700.5312(2), the interested persons would have been entitled to receive service of the order appealed after its entry. See MCR 5.107(A) ("The person who obtains an order from the court must serve a copy of the order on interested persons."). As defined in EPIC, an interested person

includes, but is not limited to, the incumbent fiduciary; an heir, devisee, child, spouse, creditor, and beneficiary and any other person that has a property right in or claim against a trust estate or the estate of a decedent, ward, or protected individual; a person that has priority for appointment as personal representative; and a fiduciary representing an interested person. Identification of interested persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, a proceeding, and by the supreme court rules. [MCL 700.1105(c).]

MCR 5.125 further defines interested parties in certain probate cases but does not specifically address the suspension of a guardian or appointment of a temporary guardian.¹⁰ But such service

¹⁰ "The persons interested in a petition for the modification or termination of a guardianship or conservatorship or for the removal of a guardian or a conservator are "(a) those interested in a petition for appointment under subrule (C)(20) [guardians appointed for a minor], (22) [7-day notice of acceptance of appointment as a guardian under MCL 700.5301], (23) [persons interested in an appointment for an alleged incapacitated individual in this state or another state], or

would have afforded the interested persons due process in the form of, among other things, the opportunity to file related petitions. See MCR 5.119(A) (“An interested person may, within the period allowed by law or these rules, file a petition and obtain a hearing with respect to the petition.”). And, in this case, the “interested persons” in the trust case seemingly differ from those in the guardianship case.¹¹ As this Court explained in *In re Rhea Brody Living Trust*, 325 Mich App 476, 486; 925 NW2d 921 (2018), vacated in part on other grounds 504 Mich 882 (2019):

Read in concert, MCL 700.1105(c) and MCR 5.125 demonstrate that the interested-person inquiry is decidedly flexible and fact specific. The identity of the interested persons can change not only over time but also depends on the nature of the proceedings and the relief requested.

Because the order appealed was apparently entered in only the trust case, not the guardianship case, some of the interested persons in the guardianship case would never be duly served with it. Thus, the probate court’s disputed action could well have served to deny those parties due process by depriving them of both notice and any reasonable opportunity to be heard on this matter. Moving forward, the issues pertaining to BJ’s guardianship should be heard and addressed in the probate court guardianship case to ensure that the proper interested parties are notified.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Anica Letica
/s/ Michelle M. Rick
/s/ Kristina Robinson Garrett

(25) [persons interested in an application for appointment of a conservator for a protected individual in this state or another state], as the case may be, and (b) the guardian or conservator.” MCR 5.125(C)(26).

¹¹ We take judicial notice of the records in both the trust and guardianship cases available on the Wayne County Probate Court’s website. <<https://public.wcpc.us/eservices/>> [click “I Accept – Click Here” under Case Search, click “Case Number,” enter case number “2014-802682-TV” and “2011-768694-GA”] (accessed September 16, 2026). See MRE 201.