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“DON’T YOU KNOW THAT YOU’RE TOXIC?”¹

A LOOK AT CONSERVATORSHIPS THROUGH THE #FREEBRITNEY MOVEMENT

Anna-Drake Stephens

Britney Spears, a famous singer and teen pop sensation during the 1990s and early 2000s, is no stranger to the spotlight. With her debut single of “...Baby One More Time” in 1998, Britney’s musical career has spanned over two decades.² She has performed world tours, completed a Las Vegas residency, guest-starred on television shows, and released nine studio albums.³ In 2007 and 2008, her personal struggles became headline news—photos of her driving with her son in her lap, shaving her head, and attacking a car with an umbrella covered almost every news outlet.⁴ Since then, Britney has been under a court-approved conservatorship that granted control over her life to her conservators.⁵ Today, Britney has once again found herself at the center of the spotlight, but for a different reason. This time, instead of people mocking her, people are coming out in support of the popstar. This article does not pick a side in the #FreeBritney movement, but instead reexamines the conservatorship process and begs the question of how the

¹ BRITNEY SPEARS, *Toxic*, on *IN THE ZONE* (Jive Records 2007) [hereinafter *Toxic*].

² Arielle Tschinkel, *22 Things You Probably Didn’t Know About Britney Spears*, *INSIDER* (Dec. 2, 2020, 2:48 PM), <https://www.insider.com/britney-spears-facts-2019-1>.

³ Gil Kaufman, *#FreeBritney: Why the Movement Started and How its Leading Voices Are Keeping it Going*, *BILLBOARD* (Sept. 10, 2020), <https://www.billboard.com/articles/news/9445049/free-britney-spears-movement-started>.

⁴ *Id.*; Korin Miller, *The Full Timeline of Britney Spears’ Conservatorship Spans More Than A Decade*, *WOMEN’S HEALTH* (Jan. 29, 2021), <https://www.womenshealthmag.com/life/a33336398/britney-spears-conservatorship-timeline/>; Serge F. Kovalski & Joe Coscarelli, *Is Britney Spears Ready to Stand on Her Own?*, *N.Y. TIMES* (May 4, 2016), <https://www.nytimes.com/2016/05/08/arts/music/is-britney-spears-ready-to-stand-on-her-own.html>.

⁵ Kovalski & Coscarelli, *supra* note 4.

legal field can move forward from the attention on such a little known, or little cared for, area of the law.

I. “SAY HELLO TO THE GIRL THAT I AM”⁶ - INTRODUCTION TO CONSERVATORSHIPS

The idea of looking over someone who is disabled or incompetent is perhaps one of the oldest features of mental health law, going all the way back in time to the Romans.⁷ Conservatorship comes from “the state’s *parens patriae* power, its duty to act as a parent for those considered too vulnerable to care for themselves.”⁸ All fifty states and the District of Columbia have some kind of guardianship or conservatorship law.⁹ Each state has its own legal criteria, processes, and terminology for when a person is unable to care for themselves.¹⁰ Depending on the terminology, the court appoints either a guardian or a conservator.¹¹ Britney Spears lives in California, so this note will focus on California law. In California, the statute distinguishes between a guardian and a conservator.¹² Under California law, a guardian is a person appointed over a minor, and a conservator is appointed over an adult.¹³ Despite the different names, the governing law on guardianships and conservatorships is similar.¹⁴

California courts define conservatorship as a legal process where a judge appoints a person or an organization, called the conservator, to care for another adult who cannot take care of themselves or their finances, called the conservatee.¹⁵ No conservatorship is granted “unless the court makes an express finding that the granting of the conservatorship is the least restrictive

⁶ BRITNEY SPEARS, *Overprotected*, on BRITNEY (Jive Records 2001).

⁷ ERIC Y. DROGIN & CURTIS L. BARRETT, EVALUATION FOR GUARDIANSHIP 4 (2010).

⁸ Rachel Aviv, *How The Elderly Lose Their Rights*, THE NEW YORKER (Oct. 2, 2017), <https://www.newyorker.com/magazine/2017/10/09/how-the-elderly-lose-their-rights>.

⁹ DROGIN & BARRETT, *supra* note 7, at 4.

¹⁰ SALLY BALCH HURME, THE FUNDAMENTALS OF GUARDIANSHIP: WHAT EVERY GUARDIAN SHOULD KNOW 1 (2001).

¹¹ *Id.*

¹² RICHARD V. MACKAY, THE LAW OF GUARDIANSHIP 2 (3d ed. 1980).

¹³ SALLY BALCH HURME, STEPS TO ENHANCE GUARDIANSHIP MONITORING 5 (1991).

¹⁴ MACKAY, *supra* note 12, at 3.

¹⁵ *Conservatorship*, CALIFORNIA COURTS, <https://www.courts.ca.gov/selfhelp-conservatorship.htm> (last visited December 27, 2020).

alternative needed for the protection of the conservatee.”¹⁶ There are different conservatorships based on the needs of the conservatee.¹⁷ The most common type is a probate conservatorship, based on the California Probate Code.¹⁸ Probate Code Conservatorships can be general or limited.¹⁹ General conservatorships are for adults “who cannot take care of themselves or their finances.”²⁰ Limited conservatorships are for adults with developmental disabilities that do not need the higher level of care in a general conservatorship.²¹ If a conservatorship is needed immediately, a court can grant a temporary conservator until a general conservator is appointed.²² A temporary conservator is for a fixed period of time and can be a conservator “of the person, estate, or both.”²³ A temporary conservator’s duties include the “care, protection, and support of the conservatee” as well as protecting the conservatee’s finances and property.²⁴

A probate court can appoint a conservator of a person or a conservator of an estate.²⁵ The conservator of a person is responsible for the conservatee’s care and protection, living arrangements, and personal care.²⁶ The conservator must get court approval for the health care and living arrangements of the conservatee and must report the conservatee’s status to the court.²⁷ The conservator of the estate is also responsible for the conservatee’s finances, income, and assets.²⁸ A conservator is appointed for an individual who cannot manage their own financial resources or is unable

¹⁶ CAL. PROB. CODE § 1800.3(b) (West 2021).

¹⁷ *Conservatorship*, *supra* note 15.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Judicial Council of California, *Handbook for Conservators* 1-5 (2016), <https://www.courts.ca.gov/documents/handbook.pdf> [hereinafter *Handbook*].

²⁴ *Conservatorship*, *supra* note 15.

²⁵ *Id.*

²⁶ *Id.*; *see also* CAL. PROB. CODE § 1801(a) (West 2020) (“A conservator of the person may be appointed for a person who is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter. . . .”).

²⁷ *Conservatorship*, *supra* note 15.

²⁸ *Id.*

to resist fraud or undue influence.²⁹ In determining who will be the conservator, the court looks to the best interests of the conservatee.³⁰ There is an order of preference for conservatorships, starting with the spouse or domestic parent, adult child, parent, sibling, any other person prescribed in the law, or a public guardian.³¹

To start the process of conservatorship, a person must file a petition and give proper notice to the required parties.³² A court investigator will then investigate the potential conservatee.³³ Then, there will be a hearing where a judge will determine whether to grant or deny the conservatorship.³⁴ A court may appoint more than one conservator of the person or estate.³⁵ The court may also, upon request or on its own, order a review of the conservatorship.³⁶ A conservatorship is usually permanent but can be amended or terminated.³⁷ The judge may remove a conservator and appoint a new conservator.³⁸ A conservator may also resign.³⁹ If the conservatee recovers and is able to handle their own affairs, they can then petition the court to end the conservatorship.⁴⁰ If this happens, the court will once again assign an investigator.⁴¹ If the judge ends the conservatorship, the conservator is released from all duties.⁴² The purpose of the conservatorship section of the California Probate Code is to “[p]rotect the rights of persons who are placed under conservatorship; . . . [p]rovide [for] the health and psychosocial needs of the proposed conservatee; . . . [c]onsider the best interests of the

²⁹ CAL. PROB. CODE § 1801(b) (West 2020).

³⁰ *Conservatorship*, *supra* note 15.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ CAL. PROB. CODE § 2105 (West 2020).

³⁶ *Id.* at § 1850(b).

³⁷ *Conservatorship*, *supra* note 15.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

conservatee; . . . [and] [p]rovide for the proper management and protection of the conservatee's real and personal property."⁴³

Furthermore, the conservatee should be allowed to "remain as independent and in the least restrictive setting as possible."⁴⁴ Conservatorship is a process of great trust and responsibility.⁴⁵ A conservatee trusts that that the conservator will follow the law.⁴⁶ The conservator should involve the conservatee in the decision-making process and make decisions that benefit the conservatee.⁴⁷ A conservatee does not "necessarily lose the right to take part in important decisions affecting his or her property and way of life."⁴⁸ The conservator should follow the conservatee's wishes and best interests.⁴⁹ There are many alternatives to conservatorships, and a judge should consider all of the alternatives before placing someone under a conservatorship.⁵⁰

II. "ALL EYES ON ME IN THE CENTER OF THE RING"⁵¹ - INTRODUCTION TO BRITNEY'S CONSERVATORSHIP

⁴³ CAL. PROB. CODE § 1800 (West 2020).

⁴⁴ *Id.*

⁴⁵ *Handbook*, *supra* note 23, at 1-2.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *See id.* at 1-11. ("All conservatees have the right to be treated with understanding and respect and to have their wishes considered. They have all basic human rights, as well, and the right to be well cared for by you.")

⁴⁹ *Id.* at 1-2.

⁵⁰ *Conservatorship*, *supra* note 15 (including but not limited to advance health care directive, restraining order, power of attorney, living trust, joint title on bank account, and informal arrangements).

⁵¹ BRITNEY SPEARS, *All Eyes on Me in the Center of the Ring*, on CIRCUS (Jive Records 2008).

A. “*Oh Baby, Baby*”⁵² - *The Beginning of Britney’s Conservatorship*

In 2007 and 2008, Britney had several public breakdowns.⁵³ In 2008, she was twice put under a 5150 psychiatric hold for mental health evaluations.⁵⁴ In California, a 5150 hold is the involuntary detainment of an adult for seventy-two hours in a psychiatric hospital when that adult is “evaluated to be a danger to others, or to himself or herself, or gravely disabled.”⁵⁵ One month after these psychiatric holds, Britney’s father, Jamie Spears, filed a petition to become an emergency temporary conservator.⁵⁶ On February 1, 2008 the judge granted Jamie’s temporary conservatorship.⁵⁷ The conservatorship became permanent before the year ended.⁵⁸ Jamie was conservator of Britney’s estate and person.⁵⁹ An attorney, Andrew Wallet, was appointed as co-conservator of the estate to help oversee Britney’s finances.⁶⁰ Finding that Britney could not appoint her own lawyer, the court appointed Samuel D. Ingham III to be her lawyer and help oversee the conservatorship.⁶¹ By March 2009, Britney was back on tour.⁶² Since being placed under conservatorship in 2008, Britney has released an album every two to three years, completed a successful Las Vegas residency, performed

⁵² BRITNEY SPEARS, *Baby One More Time*, on *BABY ONE MORE TIME* (Jive Records 1999) [hereinafter ...*Baby One More Time*].

⁵³ Miller, *supra* note 4; Kovaleski & Coscarelli, *supra* note 4; Hillary Hoffower, *The #FreeBritney Movement Has Been on a Wild Ride in 2020*, INSIDER (Dec. 9, 2020, 11:53 AM), <https://www.businessinsider.com/inside-britney-spears-conservatorship-freebritney-movement-2020-2>.

⁵⁴ Miller, *supra* note 4.

⁵⁵ *Involuntary Decision*, OC HEALTH CARE AGENCY, <https://www.ochealthinfo.com/bhs/mhi/id> (last visited Dec. 27, 2020).

⁵⁶ Laura Newberry, *Britney Spears Hasn’t Fully Controlled Her Life for Years*, L.A. TIMES (Sept. 18, 2019, 10:00 AM), <https://www.latimes.com/california/story/2019-09-17/britney-spears-conservatorship-free-britney>; Miller, *supra* note 4; Constance Grady, *Why Britney Spears’s Fans are Convinced She’s Being Held Captive*, VOX (Feb. 12, 2021, 7:10 PM), <https://www.vox.com/culture/21328341/britney-spears-conservatorship-explained-free-britney>.

⁵⁷ Kovaleski & Coscarelli, *supra* note 4.

⁵⁸ *Id.*

⁵⁹ *Id.*; Miller, *supra* note 4.

⁶⁰ Newberry, *supra* note 56.

⁶¹ Kovaleski & Coscarelli, *supra* note 4.

⁶² *Id.*

world tours, filmed a documentary, and guest-starred on various television shows.⁶³ Now over a decade later, Britney is still under conservatorship.⁶⁴

In 2019, Britney's conservatorship underwent some changes. In January of that year, Britney announced via social media that she put her second Las Vegas residency on hold, basing this decision on her father's health.⁶⁵ She did not post again on social media until April 2019.⁶⁶ Shortly after that post, Britney checked into a mental health facility.⁶⁷ She checked out on April 25, 2019.⁶⁸ In March, Wallet stepped down as co-conservator citing "substantial detriment, irreparable harm and immediate danger" if he did not resign.⁶⁹ Wallet, on top of his \$426,000 annual salary as co-conservator of the estate, received \$100,000 after his resignation.⁷⁰ Wallet's resignation left Jamie as the sole conservator of the estate.⁷¹ Britney's mom intervened on May 6, filing a request to be updated on the details of Britney's conservatorship.⁷² On May 10, Britney appeared for a conservatorship

⁶³ Mehera Bonner, *Here's What You Need to Know About the #FreeBritney Movement Taking Over Your Social Media Feeds*, COSMOPOLITAN (Oct. 6, 2020), <https://www.cosmopolitan.com/entertainment/celebs/a33371286/free-britney-spears-movement-conservatorship-explained/>; Miller, *supra* note 4; Newberry, *supra* note 56.

⁶⁴ Chloe Melas, *Britney Spears' Father Defends Himself as Republicans Call for Congressional Hearing Over Her Conservatorship*, CNN ENTERTAINMENT (Mar. 10, 2021, 1:40 PM), <https://www.cnn.com/2021/03/10/entertainment/britney-spears-conservatorship-republican-congressional-hearing/index.html>.

⁶⁵ Nicholas Hautman, *Britney Spears' Conservatorship Battle Explained*, US MAG. (Feb. 25, 2021), <https://www.usmagazine.com/celebrity-news/pictures/britney-spears-mental-health-battle-conservatorship-explained/more-lawyers/>; Newberry, *supra* note 56.

⁶⁶ Hautman, *supra* note 65; Brittany Spanos, *#FreeBritney: Understanding the Fan-led Britney Spears Movement*, ROLLING STONE (Feb. 8, 2021, 1:30 PM), <https://www.rollingstone.com/feature/freebritney-britney-spears-legal-829246/>.

⁶⁷ Hautman, *supra* note 65; Spanos, *supra* note 66.

⁶⁸ Hautman, *supra* note 65.

⁶⁹ Newberry, *supra* note 56.

⁷⁰ *Id.*; Hautman, *supra* note 65.

⁷¹ Julia Jacobs, *What Is Actually Happening With Britney Spears?*, N.Y. TIMES (May 17, 2019), <https://www.nytimes.com/2019/05/17/arts/music/britney-spears-conservatorship-mental-health.html>.

⁷² See Hautman, *supra* note 65 (explaining that Britney's parents are divorced, and her mother "simply wants to know what's going on and feels she should have that right just as much as Jamie does").

hearing, which she usually did not attend.⁷³ At this hearing, the judge ordered a 730 expert evaluation, a “comprehensive report prepared by a team of Britney’s doctors and possibly a court-appointed medical professional.”⁷⁴ Later that month, Jamie filed a notice of intent to extend Britney’s conservatorship to Hawaii, Louisiana, and Florida.⁷⁵ In September, Jamie temporarily stepped down as conservator, reportedly due to health reasons,⁷⁶ and left licensed fiduciary Jodi Montgomery as the temporary replacement.⁷⁷

B. “...*Baby One More Time*”⁷⁸ - *The Rise in the #FreeBritney Movement*

The phrase “Free Britney” first appeared in 2009 shortly after the conservatorship was granted.⁷⁹ The #FreeBritney movement argues that a popstar who has released albums, toured, and completed a residency should not be under an arrangement meant to protect the elderly and those who are seriously disabled.⁸⁰ The #FreeBritney movement experienced a resurgence in April 2019, after Britney checked herself into a mental health facility.⁸¹ Leading this new wave in the #FreeBritney movement was the podcast Britney’s Gram. Declaring an emergency episode, the podcast hosts revealed an anonymous tip they received from a paralegal who worked in the office handling Britney’s conservatorship.⁸² The voicemail informant said that

⁷³ Newberry, *supra* note 56.

⁷⁴ See Hautman, *supra* note 65 (noting that this expert evaluation could be a step to potentially end the conservatorship).

⁷⁵ See *id.* (explaining that the Spears have property in Louisiana and Florida and Britney often travels to Hawaii); Miller, *supra* note 4.

⁷⁶ See Joe Coscarelli, *Britney Spears Seeking Substantial Changes to Conservatorship*, N.Y. TIMES (Aug. 18, 2020), <https://www.nytimes.com/2020/08/18/arts/music/britney-spears-conservatorship.html>; Hautman, *supra* note 65.

⁷⁷ Coscarelli, *supra* note 76.

⁷⁸ ...*Baby One More Time*, *supra* note 52.

⁷⁹ Miller, *supra* note 4; Emily Yahr, *Why is Britney Spears Back in the News? A Guide to the Upheaval Surrounding the Pop Star*, WASH. POST (Aug. 26, 2020), <https://www.washingtonpost.com/arts-entertainment/2020/08/26/britney-spears-conservatorship-free-britney/>.

⁸⁰ Yahr, *supra* note 79.

⁸¹ Kaufman, *supra* note 3.

⁸² #FREEBRITNEY, BRITNEY’S GRAM (Apr. 16, 2020), <https://britneysinstagram.libsyn.com/75-freebritney>; Kaufman, *supra* note 3.

what was happening was “disturbing, to say the least.”⁸³ The paralegal claimed Britney’s father made her cancel the residency because she was not taking her medication.⁸⁴ He also claimed that Britney had actually been in a mental health care facility since January of 2019.⁸⁵ The anonymous voicemail said that Britney was “held against her will and her hospitalization was ordered by Jamie.”⁸⁶ According to the source, “this was not a decision she made, at all.”⁸⁷ This voicemail and podcast reignited the #FreeBritney movement, leading to a nationwide conversation on conservatorships.

II. “A GUY LIKE YOU SHOULD WEAR A WARNING”⁸⁸ - CRITIQUE OF CONSERVATORSHIPS

Conservatorships are often necessary, but the execution needs improvement.⁸⁹ Too often, conservatorships are viewed as “harmless” and a way of extending the state’s paternalism.⁹⁰ While conservatorships are very hard to end, the process is relatively easy to begin.⁹¹ One state committee noted how “the appointment of . . . a conservator removes from a person a large part of what it means to be an adult: the ability to make decisions for oneself . . . [w]e terminate this fundamental and basic right with all the procedural rigor of processing a traffic ticket.”⁹² As the American Civil Liberties Union (ACLU) described, “the ease with which disabled people can be stripped of their rights, and the extraordinary difficulties they face getting those rights back, is a systemic disability rights issue about which we

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*; Spanos, *supra* note 66.

⁸⁸ *Toxic, supra* note 1.

⁸⁹ Richard Eisenberg, *Beware The Con Game of Conservatorships*, FORBES (May 15, 2015, 12:39 PM), <https://www.forbes.com/sites/nextavenue/2015/05/15/beware-the-con-game-of-conservatorships/#3943e16ea89b>.

⁹⁰ Eva Lopez, *How Conservatorships Threatens Britney Spears’ Civil Rights*, ACLU (Aug. 20, 2020), <https://www.aclu.org/news/disability-rights/how-conservatorship-threatens-britney-spears-civil-rights/>.

⁹¹ *Id.*

⁹² NATIONAL COUNCIL ON DISABILITY, *BEYOND GUARDIANSHIP: TOWARD ALTERNATIVES THAT PROMOTE GREATER SELF-DETERMINATION FOR PEOPLE WITH DISABILITIES* 17 (2018).

have serious concerns.”⁹³ A conservatorship can be a “double-edged sword,” used to protect an individual while at the same time removing their rights, which could lead to abuse of the conservatorship.⁹⁴

Conservatorships should be seen “as the most restrictive form of court intervention.”⁹⁵ Therefore, conservatorships should be the last resort, with the most minimal intervention option chosen first.⁹⁶ In a conservatorship, the court strips the conservatee of her civil liberties.⁹⁷ The conservator is then granted power over that individual, having the final authority on any decision.⁹⁸ This transfer of power away from one person and to another person means that conservatorships can easily lead to abuse.⁹⁹ Conservators, instead of helping, often steal, neglect, and abuse their conservatee.¹⁰⁰

Conservatorships are a huge responsibility, and most conservators are unprepared or untrained to take on this new role.¹⁰¹ One survey found that less than twenty-percent of courts gave instructions on the conservator’s duties and responsibilities.¹⁰² Furthermore, most people who petition for a conservatorship are unaware of the alternatives.¹⁰³ A conservatorship is a

⁹³ Lopez, *supra* note 90.

⁹⁴ NATIONAL COUNCIL ON DISABILITY, *supra* note 92, at 5.

⁹⁵ Eisenberg, *supra* note 89.

⁹⁶ SCOTT K. SUMMERS, GUARDIANSHIP AND CONSERVATORSHIPS: A HANDBOOK FOR LAWYERS 30 (1996).

⁹⁷ Lopez, *supra* note 90.

⁹⁸ Grady, *supra* note 56.

⁹⁹ *See id.* (“Putting someone under conservatorship means giving someone else enormous power over them. So the potential for abuse is high.”); *see also* NATIONAL COUNCIL ON DISABILITY, *supra* note 92, at 10-11 (“[T]he total power which the law gives to [conservators] creates the possibilities for isolation and vulnerability that leads to, or at least permits, abuse.”).

¹⁰⁰ Eisenberg, *supra* note 89.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

difficult job, which can cause friction and damage the relationships between the conservator, the conservatee, and the family involved.¹⁰⁴

Most problems involving conservatorships are with its “oversight and accountability.”¹⁰⁵ The court should be monitoring the conservatorship through reports, which the court should review in detail.¹⁰⁶ In California, one year after the appointment of conservatorship and annually thereafter, the court must review the conservatorship.¹⁰⁷ However, continued monitoring remains a problem for courts to enforce.¹⁰⁸ Some courts may not follow up with the conservator.¹⁰⁹ Or, some courts may not consistently enforce their mandates.¹¹⁰ Additionally, not all states require that the report include the person’s need for a continued conservatorship.¹¹¹

The ACLU has joined the conversation surrounding Britney and conservatorships, lending its support to Britney. The ACLU tweeted: “People with disabilities have a right to lead self-directed lives and retain their civil rights. If Britney Spears wants to regain her civil liberties and get out of her conservatorship, we are here to help her.”¹¹² According to the ACLU, “too often people with disabilities are stripped of virtually all of their civil rights through guardianships and conservatorships.”¹¹³ The ACLU argues that “people with disabilities . . . are individuals with a full range of human experiences and preferences who have the right to exercise their civil liberties.”¹¹⁴

¹⁰⁴ See Carolyn Reinach Wolf, *A Lesson from Britney Spears’ Conservatorship*, PSYCHOL. TODAY (Sept. 1, 2020), <https://www.psychologytoday.com/us/blog/the-desk-the-mental-health-lawyer/202009/lesson-britney-spears-conservatorship>.

¹⁰⁵ Eisenberg, *supra* note 89.

¹⁰⁶ Grady, *supra* note 56.

¹⁰⁷ CAL. PROB. CODE § 1850(a)(2) (West 2020).

¹⁰⁸ NATIONAL COUNCIL ON DISABILITY, *supra* note 92, at 25.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² ACLU (@ACLU), TWITTER (Aug. 19, 2020, 3:36 PM), <https://twitter.com/aclu/status/1296184300023537665?lang=en>.

¹¹³ Lopez, *supra* note 90.

¹¹⁴ *Id.*

Nevertheless, there are some safeguards in place. The court can appoint a lawyer to advocate on behalf on the conservatee.¹¹⁵ The California Senate Committee on Judiciary in a 2015 report remarked that “[i]n theory the court-appointed counsel should be arguing on the proposed conservatee’s behalf for a less-restrictive alternative to conservatorship whenever possible.”¹¹⁶ There is, of course, the danger that the court-appointed lawyer fails to live up to his or her role as an advocate.¹¹⁷ Moreover, in California, the court is required to look at other, less restrictive alternatives before granting a conservatorship.¹¹⁸ In reality, however, conservatorships are put in place even when there are other alternatives available.¹¹⁹

III. “YOU’RE GOING TO HAVE TO SEE FROM MY PERSPECTIVE”¹²⁰ - INSIDE BRITNEY’S CONSERVATORSHIP

Britney has not controlled her life for over a decade.¹²¹ She cannot make decisions, personal or financial, without approval from her conservators. Her conservatorship is “designed for people who cannot take care of themselves.”¹²² The conservatorship allows her father to control “almost everything she touches—including her money, her health, and her daily routine.”¹²³ According to court filings, Jamie is in charge of “overseeing and coordinating Britney’s business, costuming, personal, household stuff, and legal matters (touching upon entertainment, music, other business opportunities, family law issues, the litigation, trial and/or resolution of other disputes, and ongoing litigation and conservatorship

¹¹⁵ Kovalski & Coscarelli, *supra* note 4.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ Lopez, *supra* note 90.

¹¹⁹ *Id.*

¹²⁰ BRITNEY SPEARS, *Overprotected*, on BRITNEY (Jive Records 2001).

¹²¹ Hoffower, *supra* note 53.

¹²² Kovalski & Coscarelli, *supra* note 4.

¹²³ Bonner, *supra* note 63. “Her most mundane purchases, from a drink at Starbucks to a song on iTunes, are tracked in court documents as part of the plan to safeguard the great fortune she has earned but does not ultimately control.” *Id.* Her supervision goes beyond merely accounting for purchases, as “Britney has to ask her father to sign off on every major decision she makes, from business to health to voting and marriage.” *Id.* (internal quotations omitted).

matters.)”¹²⁴ Also, Jamie is in charge of her business opportunities, her interviews, her car maintenance, and her children’s custody.¹²⁵ It is Jamie’s responsibility to “pursue opportunities related to professional commitments and activities including but not limited to performing, recording, videos, tours, TV shows and other similar activities as long as they are approved by Ms. Spears’s medical team.”¹²⁶ With the #FreeBritney movement, Britney’s Instagram posts have received much attention. While there are many conspiracy theories and speculations surrounding her Instagram page, it is one of the only things Britney herself can control.¹²⁷ Because of Britney’s conservatorship, society, through her social media, has the opportunity to:

watch[] someone at the limits of a very narrow, very prescribed world. It’s as though all Spears can do, the only thing she has, is the ability to pace through the halls of her mansion and hit a mark, over and over and over again. And then, maybe, have someone else post the video online with a smartphone she’s not allowed to use herself.¹²⁸

Critics have long questioned the payment for Britney’s conservatorship team.¹²⁹ The people who would help in deciding to end the conservatorship are the same people who profit off of it and oversee it.¹³⁰ In 2015, Jamie made \$130,000 annually.¹³¹ Elaine Renoire, president of the National Association to Stop Guardian Abuse, noted that “[a]s long as she is bringing in so much money and as long as the lawyers and conservators are

¹²⁴ Kovalski & Coscarelli, *supra* note 4.

¹²⁵ *Id.*

¹²⁶ Emily Yahr, *The Battle of Britney Spears*, WASH. POST (May 17, 2019, 9:19 AM), https://www.washingtonpost.com/lifestyle/style/the-battle-of-britney-spears/2019/05/17/edcc826c-7681-11e9-bd25-c989555e7766_story.html.

¹²⁷ Grady, *supra* note 56.

¹²⁸ *Id.*

¹²⁹ Kovalski & Coscarelli, *supra* note 4.

¹³⁰ *Id.*

¹³¹ *See id.* (“Mr. Spears takes in about \$130,000 a year as a conservator and is also reimbursed for the rent on an office he uses. His bills are reviewed and approved by the judge. He has sought only modest increases over the years, though he also requested 1.5 percent of gross revenues from the performances and merchandising tied to Ms. Spears’s Las Vegas show.”).

getting paid, there is little incentive to end it . . . Usually, the conservatorship just keeps going unless the conservatee makes a fuss or the family does.”¹³² As of 2018, Britney was worth \$59 million.¹³³ She spent \$1.1 million on legal and conservator fees that year.¹³⁴

While it is not uncommon for people under conservatorship to be productive, yet not considered to be legally competent, the secrecy of Britney’s conservatorship adds to the suspicion of exploitation.¹³⁵ Britney’s father keeps the conservatorship details mostly private.¹³⁶ Britney’s family has also been quiet on the subject of her conservatorship.¹³⁷ With the recent attention, the family members are speaking out more.¹³⁸ In 2019, with the rise of the #FreeBritney movement, Britney’s team began saying that the conservatorship was good for Britney.¹³⁹ Her manager said in an interview that the conservatorship was not a “jail,” but instead “help[ed] Britney make business decisions and manage her life in ways she can’t do on her own. . . .”¹⁴⁰ Her mother, on the other hand, has liked #FreeBritney social media posts, seemingly indicating her position.¹⁴¹ In July 2020, Britney’s brother, Bryan, spoke on the conservatorship.¹⁴² He described how the conservatorship was great for Britney but noted the strain it put on the family.¹⁴³ He also mentioned how Britney “[a]lways wanted to get out of [the conservatorship],” and expressed his concern on the reality of what would happen if the conservatorship ended.¹⁴⁴

Britney has also said little about the conservatorship and has not tried to change the structure of the arrangement.¹⁴⁵ There were some exceptions

¹³² *Id.*

¹³³ Hoffower, *supra* note 53.

¹³⁴ *Id.*

¹³⁵ Grady, *supra* note 56.

¹³⁶ Coscarelli, *supra* note 76.

¹³⁷ Yahr, *supra* note 79.

¹³⁸ *Id.*

¹³⁹ Miller, *supra* note 4.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ Coscarelli, *supra* note 76.

to this silence at the very beginning of the conservatorship.¹⁴⁶ One lawyer who Britney spoke to at the beginning said Britney was not comfortable with her father being conservator and opposed the conservatorship.¹⁴⁷ Britney, herself, once commented on how her situation was “[t]oo in control . . . if I wasn’t under the restraints I’m under, I’d feel so liberated. . . . Even when you go to jail, you know there’s the time when you’re going to get out. But in this situation, it’s never-ending.”¹⁴⁸

Britney’s silence on the conservatorship, however, ended when her lawyer filed a court document stating that the conservatorship must be substantially changed.¹⁴⁹ On August 1, 2020, Jamie refuted conspiracy theories and denied rumors that he had stolen from Britney’s estate.¹⁵⁰ On August 17, 2020, Britney requested to remove Jamie as sole conservator, stating that she was “strongly opposed” to her father returning as conservator of her person or estate.¹⁵¹ Britney filed to permanently replace her father with Jodi Montgomery.¹⁵² The Los Angeles County Superior Court in California extended the current conservatorship until February 1, 2021.¹⁵³ Britney has also said in court documents that she is “vehemently opposed” to Jamie’s motion to keep her conservatorship closed.¹⁵⁴ For the conservatorship of the estate, court filings reveal that Britney instead preferred a corporate fiduciary to be appointed, requesting Bessemer Trust Company.¹⁵⁵ On November 10, 2020, the judge appointed Bessemer Trust as co-conservator of the estate, but allowed her father to stay in his position.¹⁵⁶ The judge stated she would consider future motions to reconsider Jamie’s position or to remove Jamie completely.¹⁵⁷ At this hearing, Ingram told the court that Britney is afraid of

¹⁴⁶ Kovaleski & Coscarelli, *supra* note 4.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Coscarelli, *supra* note 76.

¹⁵⁰ Hautman, *supra* note 65.

¹⁵¹ Coscarelli, *supra* note 76; *accord* Hautman, *supra* note 65.

¹⁵² Coscarelli, *supra* note 76; Hautman, *supra* note 65.

¹⁵³ Coscarelli, *supra* note 76.

¹⁵⁴ Miller, *supra* note 4.

¹⁵⁵ *See id.* *See also* Kaufman, *supra* note 3.

¹⁵⁶ *Britney Spears Loses Court Bid to Remove Father's Control Over Estate*, BBC (Nov. 11, 2020), <https://www.bbc.com/news/entertainment-arts-54897918> [hereinafter *Court Bid*].

¹⁵⁷ *Id.*

Jamie and will not perform again so long as Jamie is in charge.¹⁵⁸ The #FreeBritney movement gathered outside the courthouse during this hearing with signs to show their support for Britney.¹⁵⁹

There is little doubt that this conservatorship was good for Britney in 2008. Britney needed help in early 2008, and the conservatorship provided that help. The conservatorship is credited with “rescuing [her] career—and her life.”¹⁶⁰ Britney’s lawyer explained in one court filing how the early period of Britney’s conservatorship “rescued her from a collapse, exploitation by predatory individuals and financial ruin.”¹⁶¹ Even Britney’s mother wrote in her book, “I shuddered to think . . . what depths of desperation we would have to plumb to regain charge of our child.”¹⁶²

While conservatorships can be corrupted, there still might be a good reason why Britney is still under a conservatorship. Britney’s mental condition or diagnosis is kept private.¹⁶³ The media does not know how vulnerable she is, but the court does.¹⁶⁴ And if Britney is “still at risk,” then this conservatorship is functioning as it should.¹⁶⁵ After all, the court must ensure that a person is not under a conservatorship unless it is needed.¹⁶⁶ Former co-conservator Wallet once mentioned that he thinks Britney will always be under a conservatorship as “the conservatorship is in her best interests . . . [p]rotecting her assets is very important and for that the

¹⁵⁸ Maria Puente, *Britney Spears is 'Afraid of Father' Jamie, Lawyer Says; Judge Declines to Rule on Conservatorship*, USA TODAY (Nov. 10, 2020 6:42 AM), <https://www.usatoday.com/story/entertainment/celebrities/2020/11/10/britney-spears-seeks-freedom-dad-jamie-spears-conservator-case/6231340002/>.

¹⁵⁹ *Court Bid*, *supra* note 156.

¹⁶⁰ Kovaleski & Coscarelli, *supra* note 4.

¹⁶¹ Antoinette Bueno, *Britney Spears' Conservatorship: Dad Jamie's Role Remains Unchanged After She Asks Court to Drop Him*, ET (Aug. 19, 2020, 8:17 PM), <https://www.etonline.com/britney-spears-conservatorship-dad-jamies-role-remains-unchanged-after-she-asks-court-to-drop-him>.

¹⁶² Kovaleski & Coscarelli, *supra* note 4.

¹⁶³ Jacobs, *supra* note 71.

¹⁶⁴ *Id.*

¹⁶⁵ Maria Puente, *Why Does Britney Spears Still Have a Conservator? Legal Expert Says Her Case File Suggests Answers*, USA TODAY (Oct. 24, 2019, 5:36 PM), <https://www.usatoday.com/story/entertainment/celebrities/2019/10/24/britney-spears-why-does-she-still-need-conservator/2288009001/>.

¹⁶⁶ Newberry, *supra* note 56.

conservatorship has to stay in place because she is susceptible to undue influences.”¹⁶⁷ In Britney’s case, there may be added pressure on the court to do the right thing as no California judge wants to make headline news of doing something wrong to Britney Spears.¹⁶⁸ Still, a conservatee may recover enough so that a conservator is no longer needed, or is not needed as much.¹⁶⁹ The conservatee may be able to make some sound decisions on her own.¹⁷⁰ The question then becomes: at what point should the court loosen some restrictions and give a conservatee the chance to make her own decisions?

IV. “MY LONELINESS IS KILLING ME”¹⁷¹ - THE PSYCHOLOGY OF AUTONOMY

Britney’s lawyer has said that Britney is now “trying to regain some measure of personal autonomy.”¹⁷² Autonomy is central to mental health law, as “there is considerable psychological value in allowing people to make choices for themselves.”¹⁷³ Conservatorships require a balancing of an individual’s right to autonomy and an individual’s need to be protected.¹⁷⁴ This balancing can go beyond protection and interfere with autonomy.¹⁷⁵ Autonomy is critical to psychological development.¹⁷⁶ Limiting this psychological need to make decisions can be “profound.”¹⁷⁷ Therefore, putting someone under conservatorship is a very significant decision.¹⁷⁸ As

¹⁶⁷ Bonner, *supra* note 63.

¹⁶⁸ Yahr, *supra* note 126.

¹⁶⁹ WINSOR C. SCHMIDT, *GUARDIANSHIP: COURT OF LAST RESORT FOR THE ELDERLY AND DISABLED* 59 (1995).

¹⁷⁰ *Id.*

¹⁷¹ ...*Baby One More Time*, *supra* note 52.

¹⁷² Kaufman, *supra* note 3.

¹⁷³ Bruce J. Winick, *On Autonomy: Legal and Psychological Perspectives*, 37 *VILL. L. REV.* 1705, 1755 (1992).

¹⁷⁴ *See id.* at 1706.

¹⁷⁵ *Id.* at 1755.

¹⁷⁶ Lisa Legault, *The Need for Autonomy*, in *ENCYCLOPEDIA OF PERSONALITY AND INDIVIDUAL DIFFERENCES* 1 (2016).

¹⁷⁷ SUMMERS, *supra* note 96, at xvii (“Lawyers must remember that a guardianship results in curtailing (or taking) one’s rights to make personal decisions.”).

¹⁷⁸ *See* Thomas Hafemeister & Bruce Dennis Sales, *Responsibilities of Psychologists Under Guardianship and Conservatorship Laws*, 13 *PROF. PSYCHOL.* 354, 355 (1982) (explaining

a California Probate Court case described it, “a conservatee may be subjected to greater control of his or her life than one convicted of a crime.”¹⁷⁹

Being able to make a decision for oneself is a basic need.¹⁸⁰ Personal choices involve commitment that reinforces achievement, allowing individuals to perform more effectively and feel greater satisfaction.¹⁸¹ When the government intervenes and denies an individual the right to make their own decisions, the results may be “counterproductive, ultimately frustrating the attainment of whatever goals government may think the individual should seek to achieve.”¹⁸² Government intervention may also cause psychological damage.¹⁸³ When individuals cannot make decisions, “they fail to develop those self-determining capabilities that are essential to mature, adult functioning.”¹⁸⁴ The loss of this right can reduce an adult to a child or nonperson, known as legal infantilization.¹⁸⁵

Moreover, the loss of autonomy can lead to a decrease in well-being.¹⁸⁶ Autonomy is a “condition for flourishing.”¹⁸⁷ Individuals who cannot make decisions may have low self-esteem, withdrawal, and passivity.¹⁸⁸ People under conservatorships are deprived of autonomy, and therefore are deprived of control over their lives.¹⁸⁹ This control is necessary

how putting someone under conservatorship is “among the most weighty and complex [decisions] which the law is called upon to make.”)

¹⁷⁹ Conservatorship of Roulet, 23 Cal. 3d 219, 228 (1979).

¹⁸⁰ Bruce J. Winick, *The Side Effects of Incompetency Labeling and the Implications For Mental Health Law*, 1 PSYCHOL. PUB. POL’Y, AND L. 6, 21 (1995).

¹⁸¹ Winick, *supra* note 173, at 1761.

¹⁸² *Id.* at 1770.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 1765.

¹⁸⁵ See *id.* (using the parental power of the state to reduce autonomy is “inevitably infantilizing.”); see also SCHMIDT, *supra* note 169, at 6.

¹⁸⁶ See Jennifer L. Wright, *Guardianship for Your Own Good: Improving the Well-being of Respondents and Wards in the USA*, 33 INT’L J. OF L. & PSYCHIATRY 350, 354 (2010) (explaining how the loss of autonomy can lead to a decrease in “physical and mental health, longevity, ability to function, and reports of subjective well-being.”).

¹⁸⁷ *Id.* at 356.

¹⁸⁸ Winick, *supra* note 180, at 21.

¹⁸⁹ *Id.*

to well-being, and without this control, individuals can feel depressed.¹⁹⁰ The value of autonomy on well-being can be seen in a wide variety of studies. One study with nursing home residents looked at the power of decision making.¹⁹¹ The residents were divided into two groups, and one group was allowed to make decisions while the other group made no decisions.¹⁹² The non-decision-making group debilitated seventy-one percent more than the decision-making group over a three-week period. On the other hand, the group that made decisions showed improvement, felt more active, and were generally happy.¹⁹³ From this study, it can be concluded that removing autonomy does not necessarily benefit conservatees.¹⁹⁴

Being in control of one's environment is "an intrinsic necessity of life itself."¹⁹⁵ It has been argued that decision making is essential to psychological development.¹⁹⁶ Instead of legal infantilization, autonomy allows individuals to develop and act like adults.¹⁹⁷ Moreover, the individual is treated as a human being, not an object.¹⁹⁸ A court should consider the significance of the loss of autonomy and whether these negative effects outweigh the benefits.¹⁹⁹ The psychological power of "autonomy requires that the government meet a high burden of justification" in granting a conservatorship.²⁰⁰

¹⁹⁰ See *id.* at 23 ("Labeling individuals incompetent therefore places a cloud over their sense of psychological well-being and depresses mood in ways that are strongly unpleasant and that may be debilitating.").

¹⁹¹ Wright, *supra* note 186, at 355-56.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* (citation and internal quotations omitted).

¹⁹⁶ See Winick, *supra* note 173, at 1764.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at 1767.

¹⁹⁹ See Wright, *supra* note 186, at 363.

²⁰⁰ Winick, *supra* note 173, at 1772.

V. “NOW I’M STRNGER THAN YESTERDAY”²⁰¹ - CONCLUSION

Britney Spears is only one of the many Americans who are under conservatorship.²⁰² Britney is not the first celebrity to be placed under conservatorship, and she will most likely not be the last. But she has brought attention to a little-known area of probate law.²⁰³ Through the rise of the #FreeBritney movement, conservatorships have become headline news.²⁰⁴ As the Britney’s Gram podcast hosts described her story, “[m]any people fall victim to conservatorship abuse in this country, but sadly, they are often society’s ‘invisible.’ [Britney] has shined a light on this larger issue, and hopefully that continues to be the case.”²⁰⁵

Because society will generally always care for the disabled, it is therefore important for everyone, including lawyers, to protect those in our society while still treating them with respect and dignity.²⁰⁶ Society’s goodwill should not be imposed coercively.²⁰⁷ Conservatorships have the potential to be both necessary and proper. Nevertheless, all conservatorships carry with them the potential for abuse. Courts should strictly monitor conservatorships and seriously consider when some restrictions can be removed. The legal field must always keep in mind that a conservatorship is taking away someone’s rights and personal liberties and should always treat conservatorships as the last resort.

²⁰¹ BRITNEY SPEARS, *Stronger, on OOPS!... I DID IT AGAIN* (Jive Records 1999).

²⁰² Lopez, *supra* note 90.

²⁰³ Puente, *supra* note 165.

²⁰⁴ Kaufman, *supra* note 3.

²⁰⁵ *Id.*

²⁰⁶ SUMMERS, *supra* note 96, at xvii.

²⁰⁷ Winick, *supra* note 173, at 1777.