

No. 1-11-1337

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

JAMES T. STRUCK,	) Appeal from
	) the Circuit Court
Plaintiff-Appellant,	) of Cook County.
	)
v.	) No. 86 P 4029
	)
COOK COUNTY PUBLIC GUARDIAN,	) Honorable
	) John J. Fleming,
Defendant- Appellee.	) Judge Presiding.

PRESIDING JUSTICE QUINN delivered the judgment of the court.  
Justices Cunningham and Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The circuit court's order denying appellant's request to restore his mother, to allow visitation against the wishes of the mother's guardian and to allow the guardian's request for fees is affirmed.

¶ 2 James Struck (James) appeals from the May 5, 2011 order of the circuit court granting the

Office of the Cook County Public Guardian's request to withdraw as the guardian for James' mother, Janie Struck (Janie), who had been adjudicated a disabled adult. The circuit court

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appointed the Office of the State Guardian as Janie's guardian. The circuit court also entered an order saying that the May 8, 2009 court order regarding visitation between appellant and Janie remained in full force and effect. The 2011 court order also recited that appellant did not have standing to challenge the State Guardian's decisions relating to visitation between appellant and Janie.

¶ 3 James timely filed this appeal, raising as issues whether the circuit court should have:

- 1) restored Janie;
- 2) ordered Janie's guardian to allow visitation between Janie and James; and
- 3) denied the Cook County Public Guardian's request that fees of some \$7,421 be paid to Cook County from Janie's estate, to compensate for guardianship, social and legal services rendered.

¶ 4 Pursuant to this court's order, no brief has been filed in response, therefore we will consider the appeal pursuant to the principles set forth in *First Capital Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-33 (1976).

¶ 5 This appeal is directly related to the guardianship of Janie, which was the subject of an opinion of this court. *Struck v. Cook County Public Guardian*, 387 Ill. App. 3d 867 (2008) (*Struck*). That opinion contains the facts relevant to the guardianship of Janie since she was first adjudicated as a disabled adult in 1986, pursuant to the Probate Act of 1975 (Probate Act) (755 ILCS 5/121a-3(b)(West 2010)). In *Struck*, this court held that:

"if an individual seeks to challenge the decisions of the guardian, the Probate Act provides standing for the limited purpose of challenging the order of guardianship (755

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ILCS 5/11a-8(e), 10(f)(West 2006)) or to petition the circuit court to terminate the adjudication of disability, revoke the letters of guardianship, or modify the duties of the guardian (755 ILCS 5/11a-20(West 2006)). Upon the filing of a petition under section 11a-20 of the Probate Act, the circuit court may terminate the guardianship or modify the duties based on "clear and convincing evidence" of the ward's capacity to perform the tasks necessary for the care of her person or the management of her estate. 755 ILCS 5/11a-20(a) (West 2006)." *Struck*, 387 Ill. App. 3d at 878.

We then held that James did not have "standing to request visitation with Janie and to challenge the guardian's visitation decisions." *Struck*, 387 Ill. App. 3d at 879. We also noted that the circuit court had the inherent power to control its docket by prohibiting appellant from repeatedly filing requests for relief between court dates. *Struck*, 387 Ill. App. 3d at 874, fn. 1.

¶ 6 We further noted that "James' appellate brief contains nonsensical arguments pertaining to the risks of second hand smoke \*\*\* alleged that Cook County profits from taxing corporations in the sale of alcohol, tobacco, and weapons and equated guardianship to slavery. *Struck*, 387 Ill. App. at 873. Similarly, in appellant's current brief, he criticizes several colleges for serving alcohol, repeats his attacks on Boeing Corporation and compares guardianship to slavery and communism. Appellant repeats this mantra in the dozens of motions he has filed during the pendency of his appeals. (During the pending of 1-07-1865, appellant filed 29 motions seeking some form of relief relating to the matters appealed from the circuit court).

¶ 7 In spite of the glaring deficiencies of James' brief, we choose to address his appeal on the merits as the issues are simple and the record is sufficient for us to address the issues.

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¶ 8 The circuit court conducted a hearing in this matter on May 5, 2011. The transcript of the hearing shows that appellant continually interrupted the judge and he had to be removed from the courtroom. The circuit court reviewed the documents filed by James in support of his request that Janie be restored, that James should be allowed unrestricted visitation with Janie, and that Cook County should not receive fees from Janie's estate. The circuit court found that many of the pleadings filed by James were "incoherent" and that James provided no factual basis to restore Janie or to deny the Public Guardian's fee request. The record also contains a status report from the Public Guardian's Office regarding a supervised visit between James and Janie in early 2011. James failed to abide by the agreement he had with the Guardian, which required him to not encourage Janie to seek to leave the nursing home. As a result, Janie became extremely agitated and the guardian terminated the visit and cancelled the next scheduled supervised visit.

¶ 9 After the May 5, 2011 hearing, the circuit court granted the Public Guardian's request that visitation could only take place with the permission of Janie's guardian, currently the Office of the State Guardian.

¶ 10 Based on the record before this court we affirm the May 5, 2011 order of the circuit court in all respects.

¶ 11 Finally, just as he has in the circuit court, James has burdened this court with numerous unsupported motions. Since October 23, 2006, when James filed his first appeal in

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this court, 1-06-2996, and May 13, 2011, when James filed this appeal, James has filed 16 appeals. In this appeal alone, James has filed 24 motions asking in perfunctory but usually incoherent fashion that this court restore Janie, pay James for various expenses, let Janie move in with James, and allow visitation between Janie and James. These issues were addressed by the circuit court and were therefore the subject of this appeal. It is improper for the appellant to file an appeal from a circuit court order and then request in 24 separate motions that same relief.

¶ 12 The United States Supreme Court has explained:

"[E]very paper filed with the Clerk of this court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of this Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice." *In re McDonald*, 489 U.S. 180, 184, 109 S. Ct. 993, 996, 103 L. Ed. 2d 158 (1989).

¶ 13 Supreme Court Rule 375 addresses frivolous appeals and failure to comply with supreme court rules. This court has reviewed all 16 of James' appeals and the scores of motions filed by appellant. It does not appear to this court that James has filed his numerous appeals and even more numerous motions in an effort to delay, harass or cause needless expense. Consequently, we will not sanction James.

¶ 14 We do enter an order prohibiting appellant from filing any notice of appeal except from a final order of the circuit court, in compliance with Supreme Court Rules 301, 303 and 304. Further, James is prohibited from filing motions seeking any form of relief other than for extensions of time or for waiver fees during the pendency of any properly filed appeal. The

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Office of the Clerk of the First District Appellate Court is directed to return to appellant any papers he attempts to file which do not meet with these requirements.