

Appendix 13

4. Petitioner, acting as Mr. L's pro bono counsel in removal proceedings before the Immigration Court, and believing that his client cannot adequately act in his own interest, seeks appointment of G L as limited guardian so that he may mount an effective defense on Mr. L's behalf.

5. Mr. L is the subject of proceedings for his removal from the United States commenced by the United States Department of Homeland Security on May 5, 2004, case number #. The Department has brought this proceeding against Mr. L pursuant to Section 237(a)(2)(C) of the Immigration and Nationality Act, as amended, on the basis of his conviction of the crime of Criminal Possession of a Weapon in the Third Degree in violation of Section 265.02 of the New York State Penal Law. Mr. L may be eligible for cancellation of removal on a showing, inter alia, that his offense does not constitute an aggravated felony under the Immigration and Nationality Act, that he has been a person of good moral character during his residence in the United States, and that his removal would result in extreme hardship to family members. Petitioner entered his first appearance on behalf of Mr. L before the Immigration Court on February 18, 2005. The court has scheduled a further Master Calendar Hearing on Mr. L's case on April 1, 2005.

6. Mr. L, who has a history of mental illness predating his incarceration, has experienced a significant deterioration in his mental health since entering Hampton Roads Regional Jail on May 29, 2004. He receives periodic check-ups by nursing staff at the Regional Jail, but is refusing to take medication, suffers from delusions and paranoia, and exhibits a total disregard for his personal hygiene. In his several appearances to date before the Immigration Court in

Arlington by video link, he has been unable to comprehend the proceedings or to participate intelligibly in them.

7. Mr. L's mental condition is a serious obstacle to petitioner's ability to represent him effectively before the Immigration Court. Mr. L refused a visit from petitioner on February 28, and petitioner has consequently been unable to date to meet him in person. In view of Mr. L's mental condition, petitioner considers him unable to give informed consent to the release of medical and criminal record information necessary to defend him in removal proceedings.

8. Dr. Charles S. Broadfield, Ph.D., LMFT, LPC, of Janus Associates, P.O. Box 10083, 5750 Chesapeake Blvd, Suite 105, Norfolk, VA 23513-0083, a Professional Counselor - Marriage and Family Counselor licensed in the Commonwealth of Virginia, and who, as a result of his training and extensive experience, is skilled in the assessment of respondent's mental condition as outlined in this petition, has expressed himself ready to prepare a report evaluating the condition of Mr. L in accordance with Section 37.1-134.11 of the Code of Virginia. Petitioner requests the Court to order the Warden of Hampton Roads Regional Jail to make Mr. L immediately available for examination by Dr. Broadfield, and to delay setting a date for a hearing on this petition until petitioner has filed a report containing Dr. Broadfield's evaluation.

9. Mr. L's sister, G L, 32 years of age and mentally competent, has expressed herself able and willing to act as his limited guardian for the purpose of facilitating Mr. L's defense in the removal proceedings. The proposed guardianship would be limited in scope and duration to actions necessary to allow petitioner to represent Mr. L effectively in these proceedings.

Specifically, petitioner requests that G L be given authority to plead before the Immigration Court on Mr. L's behalf, and to authorize release of all information necessary to Mr. L's defense. Because Mr. L will remain in detention pending the outcome of the removal proceedings and is indigent, no new arrangements need to be made in respect of his living or financial arrangements.

10. Mr. L's native language is English.

11. On belief, Mr. L has no income and no assets and is therefore indigent for the purposes of Section 37.1-134.13:1 of the Code of Virginia, such that any fees and costs of this proceeding which are fixed by the court or taxed as costs should be borne by the Commonwealth. Petitioner therefore requests that the Court waive fees and costs and that Mr. L be allowed to proceed *In Forma Pauperis*, until such time as more definite information about his financial resources is available.

12. Petitioner believes that Mr. L's attendance at the hearing on this petition would not be detrimental to Mr. L's health, care or safety.

NOW, THEREFORE, petitioner requests that the Court appoint G L as limited guardian for PAL, that the Court order Mr. L to be made immediately available for examination by Dr. Broadfield, that the Court waive fees and costs and allow Mr. L to proceed *In Forma Pauperis* until such time as more definite information is available about his financial resources, and that the Court appoint a guardian ad litem to represent Mr. L in the hearing on this petition.

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Dated: April 13, 2005