

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2005

KATHLEEN M. FOUST,

Appellant,

v.

Case No. 5D04-2266

IVAN MALDONADO, GUARDIAN ETC.,

Appellee.

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Opinion filed April 1, 2005

Appeal from the Circuit Court
for Osceola County,
Jeffords D. Miller, Judge.

David C. Brennan, Orlando, for Appellant.

No Appearance for Appellee.

GRIFFIN, J.

This is an appeal of an order removing a professional guardian, Kathleen M. Foust ["Foust"]. We agree with Foust that the notice given and procedure employed at the June 8, 2004, hearing were inadequate to meet the requirements of law, including the statutory and rule procedures for guardian removal contained in Florida Probate Rule 5.660 and section 744.477, Florida Statutes (2003). We also agree that in light of the trial judge's coincidental contact with Mr. and Mrs. Spino at the auction of the ward's property and their communications during the hearing, the trial judge should have recused himself and allowed another judge to conduct the removal hearing.

REVERSED and REMANDED.

PALMER and ORFINGER, JJ., concur.