

**Nicholas Clouse**  
**Written Testimony**  
**U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution**  
**Toxic Conservatorships: The Need for Reform**  
**September 28, 2021**

My name is Nicholas Clouse. I am a 28-year-old father, husband, friend, and a full-time skilled worker. Up until a few weeks ago and for the past 10 years, I was stuck in an unnecessary guardianship. I want to thank you, Senator Blumenthal, and Senator Cruz for the invitation and to the rest of the subcommittee members for allowing me the opportunity to tell my story. It is my hope that by sharing my experience I can help to illustrate the need for federal efforts to address the shortcomings of state level guardianship and conservatorship systems in which the legal protections for the most basic civil rights vary widely.

I never imagined that a friend's suggestion to go play video games at his parents' house would alter my life forever at the age of eighteen. As I rode carefree in the passenger seat of my friend's new Camaro, I suddenly felt the car veer sharply and my body go weightless when my seatbelt failed to prevent my head from slamming into the passenger side window. The next thing I knew I was on the ground looking up at a paramedic as they stabilized my neck. Thankfully, it was not broken. The EMTs and doctors claim I never lost consciousness, but I have no recollection of many of the events that followed.

My next memory is waking up on my parents' couch after leaving the hospital. I barely left that couch for weeks. At the time, I remembered almost nothing from before the accident, and it was as though my family members were suddenly strangers. The countless pictures they insisted I look at in an effort to spark my memory did not seem to make a difference. If it were not for the constant headaches and recurring nightmares of the accident in the rare moments I managed to sleep, I probably would have assumed it was all a strange dream.

About a month after the accident, I began my senior year of high school. On the first day, friends who had heard about the accident over the summer approached me in the halls to see how I was doing, but I did not recognize them. When Thanksgiving rolled around and the headaches, memory difficulties, and insomnia continued, my parents got more worried. None of the many physicians or psychologists I saw over the next several months could explain exactly why my symptoms were so severe. All that I knew was that no matter how hard I tried, I couldn't remember the things everyone wanted me to remember.

In the fall of 2012, my parents had decided they were going to sue my friend and his family over the accident. On the rationale that someone might take advantage of me if I were to receive a large sum of money, my parents convinced me they should become my legal guardians. They told me to sign a piece of paper and that it would let them take care of the lawsuit and I could just focus on getting better. There was no discussion about what this meant long-term, what rights would be taken away,

what it meant for my life, or whether something less restrictive might have met my needs at the time. I do not know whether a hearing was even held before the judge signed the order that essentially turned me back into a child in the eyes of the law.

In September of 2014, I was blessed to meet Chelsi, the woman who eventually became my wife and the mother of my child. The symptoms from the traumatic brain injury (“TBI”) had improved quite a bit by that point, but rather than looking toward a limitless horizon like most twenty-one-year-olds, my vision of the future was clouded by constantly being told what I could not do because of the TBI. Most of my time was spent playing video games on the same couch I woke up on after coming home from the hospital. The closest thing I had to a career plan was a seasonal job picking apples at a family friend’s orchard. But when Chelsi looked at me she saw who I could still become and reminded me there was a world beyond my parents’ couch. Suddenly, someone was in my corner who made me believe I could achieve whatever I wanted to if I worked hard enough.

Another setback came in the winter of 2015. I experienced a spinal cord injury while playing sled hockey that left me without feeling below my knees for several weeks. The doctors were not sure I would ever walk again, but with Chelsi’s support I was doing so independently in six months. The personal injury case settled around that time, and the money that was the basis for my parents seeking guardianship over me finally came in. After everyone involved got their pieces of the pie, a special needs trust was established and an annuity was purchased that will pay into it every month for the rest of my life.

On Valentine’s Day of 2016 I asked Chelsi to marry me. This was just after the one-year anniversary of my spinal cord injury. I was excited to start a family, but my parents were extremely hesitant to allow me to work, let alone get married. Two months later we found out Chelsi was pregnant. This was unquestionably the best thing that ever happened to me. I am not sure my parents would have ever allowed me to get a job and move out of the house were it not for a baby on the way. By the summer I had moved into the house Chelsi owned, where we still live, and was working full-time as a biotechnician and maintenance man for a nearby ethanol production facility.

In December of 2016 I became a father, but in many ways my parents still treated me like a child. I had no control over the paychecks I earned and had to get permission from my stepfather to buy diapers and formula for my daughter. The trust could have helped pay for some of these expenses, but my parents refused to even provide the contact information for the trustee. I could make medical appointments for my daughter but was not allowed to make them for myself. Chelsi and I were eager to get married but my parents insisted on controlling nearly every aspect of the planning process. When we finally did get married in May of 2018, my stepfather insisted on signing the marriage certificate so that it was clear whose decision it really was. He was upset when the clerk’s office told him this was not an option.

Before and after the wedding, I regularly asked my parents about ending the guardianship. They eventually arranged a meeting between me and their attorney, who told me ending the guardianship

was impossible. Ironically, my earnings from work were paying her legal fees. The relationship between my parents and I had become so strained that I barely wanted to speak with them. My stepfather would frequently talk down to me and make remarks about how I was incapable of doing things because of the TBI. Chelsi began handling most of the communications with my parents about my finances, and it reached the point where we stopped allowing them to spend time with our daughter unsupervised because my stepfather treated Chelsi so disrespectfully. However, we had no choice but to continue dealing with them if we wanted to pay the bills, and they knew they had that power.

After nearly three years at the ethanol production facility, I changed jobs in hopes that if I made enough money my parents would be less controlling about my finances. I briefly worked for an excavation company operating heavy machinery and then as a welder for a manufacturer of utility trailers. Although my earnings were more than sufficient to live off in a small town in northeast Indiana, my stepfather's approach became even more heavy handed. We would get questioned about buying things like doughnuts or a magazine with the weekly groceries. Unless my stepfather approved of an expense and we accounted for every last cent, it was not getting reimbursed.

Chelsi and I eventually became suspicious. Despite the level of control my stepfather exercised over my finances, we would occasionally receive past-due notices for bills my parents were supposed to be paying, and we would notice purchases they would make for themselves that appeared beyond their means. Although we did not have proof, we made a report of suspected financial exploitation to Adult Protective Services ("APS"). To my knowledge the APS investigation was not able to confirm our suspicions, but it did lead to a referral to Indiana Disability Rights ("IDR"), our state's protection and advocacy organization.

Before we even had a chance to contact IDR, my stepfather sent an e-mail to Chelsi and I about the APS investigation. He let us know he suspected us of making the report, and that funds from my guardianship account were used to pay their legal fees related to the investigation and that this was the reasoning for his "recent tightening of control" over my finances. However, it was an insinuation in the e-mail that he might seek to break up my family by forcing me to move back in with them if we were not sufficiently cooperative, that ultimately led us to contact IDR.

At the time we reached out to IDR in the Spring of 2020 I did not know what to expect. I was never able to speak to an attorney other than my parents' lawyer. Without having any control over my finances, I had no way to hire one on my own and Indiana guardianship laws do not provide a right to a lawyer for folks under or at risk of guardianship. Indiana guardianship laws do not even require that the continued need for guardianship ever be reviewed by the court after one is established. If IDR had not accepted my case and offered to represent me free of charge, I am not sure I ever would have had a path out.

My attorney, Justin Schrock, was the first person to explain to me that restoring my rights was an actual possibility. We talked through several different options other than guardianship that would allow me to choose people I trusted to provide assistance in different areas if I needed or desired it. At

the very beginning, Justin was hopeful we could work with my parents and their lawyer to seek termination of the guardianship in favor of one or more less-restrictive options. However, by the time he and his support staff finished their review of my case, we agreed that an uncontested termination was not a realistic option. Even when Justin was ready to file a petition to terminate the guardianship, I was so nervous that my stepfather might try to break up my family when he found out that I requested we wait to file until after the holidays. Thankfully, Justin understood my concerns and we waited until January of 2021 to file the petition.

After the petition was filed, I was finally comfortable with Justin attempting to work with my parents' lawyer to cooperatively end the guardianship. However, they refused to even consider the possibility until I first underwent a neuro-psychological evaluation. Due to the unpredictable nature of contested guardianship efforts – particularly in Indiana where our laws do not provide a straightforward means to terminate a guardianship – we agreed to continue the hearing so that an evaluation could be arranged. Justin's confidence that my abilities would come through in an evaluation eased my nerves somewhat.

After several weeks of haggling over who would do the evaluation, what the scope would be, and who would pay for it, we finally agreed to an evaluation of my adaptive functioning capabilities with a clinical psychologist my parents suggested, with the cost shared between my parents and the special needs trust. While these negotiations were ongoing, I accepted a job as a warehouse forklift operator that included another substantial raise in pay. Predictably, neither the termination effort or the new job changed how my parents treated Chelsi and I. The only major difference was that most of these communications were between Justin and their lawyer.

The day of the evaluation fell on June 3. Chelsi and I had driven the two hours to Indianapolis the day before and used money we had saved from her earnings to stay in a hotel so that I would be well rested on the morning of the evaluation. After the evaluation, I felt like things had gone well, but it was hard to know what to expect. The report was delayed somewhat because my parents insisted they meet with the psychologist in person, which did not occur until nearly a month later.

The report was finally released in mid-July. The clinical psychologist who my parents suggested perform the evaluation determined that I have no need for a legal guardian, and that the excessive control my parents exercised over my finances was actually hampering the development of my financial management skills over the long-term. And yet, my parents were still not ready to cooperate with a termination effort. It was not until over five weeks later – less than seventy-two hours before the final hearing was set to begin– that my parents allowed their attorney to sign an agreement consenting to the termination of the guardianship. The court accepted the agreement and issued the order granting the petition to terminate on August 24, 2021.

After everything I have been through, I am incredibly lucky to be in my current position. I have a wife who is my best friend and biggest supporter, a healthy child who is the light of my life, close friends and family, and a successful career. If it was this difficult for someone in my position to be released from

an unnecessary guardianship, I cannot imagine what it is like for those who are not as privileged. If my guardianship had been established in a state that provides more robust due process protections for those at risk of and under guardianship, my rights might have been restored several years ago. In a country that prides itself on the individual liberties that our citizens enjoy compared to elsewhere in the world, this is not acceptable. We need better protections to keep this from happening, and we need more attorneys like Justin and Indiana Disability Rights to enforce those protections.

Thank you again to Senator Blumenthal, Senator Cruz, and the rest of the members of the subcommittee for the opportunity to tell my story.

**\*\* END OF WRITTEN TESTIMONY \*\***