



ABQ project saved
Mayor says city and developer 'stepped up' on \$40M development planned for First and Central
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Lobos in review
UNM men's basketball team missed some opportunities in its California trip
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FINAL ****



Prosecutor drops murder charge against Perez
New district attorney promises review of case

changed abruptly when he was dispatched to a police standstill in March 2015 and ended up firing at a mentally ill man brandishing knives.

With the filing of a single piece of paper dismissing that second-degree murder charge, Perez "got his life back" Monday, said his attorney, Luis Stokes.

"Unless the new DA chooses to refile, the case is over against Dominique Perez," Stokes told the Journal.

Special prosecutor Randi McGinn filed the dismissal "without prejudice," which gives incoming District Attorney Sam Torres the option of refiling the charge after he takes office Jan. 1.



"It was the right thing to do," McGinn said Monday.

A decorated Iraq War veteran who received a Purple Heart before joining the Albuquerque Police Department in 2006, SWAT team member Perez was fired pursuant to APD policy after he was formally charged with a killing. If convicted, he would have faced up to 35 years in prison.

See **PROSECUTOR** >> A2

JOURNAL INVESTIGATIVE REPORT - PART 3

“ It was ... like torture, watching what they did to Mother. ”

WHO GUARDS THE GUARDIANS?

THIRD IN A SERIES
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BY DIANE DWYND
ALBUQUERQUE JOURNAL

Blair and her husband, Clarence "Casey" Darrell, loved horses. They met in the late 1950s when Blair, a handsome, vibrant transplant from New Orleans, attended the University of New Mexico's anthropology program.

She and her 2-year-old daughter, Kris, visited the Darrell stables to try a horse. But after the animal tossed Blair, she took it back, demanding that Casey break the horse or give her a refund.

Casey, a World War II bomber pilot, was split by Blair's spirit. They married at a friend's North Valley home on Jan. 27, 1958.

Casey adopted little Kris, and the couple started their own family on the 16-acre Darrell ranch nestled in the bosque near what is now Coors and Paseo del Norte, where

champion quarter horses were raised and trained. They had three children on that ranch: Cliff, Emily and Mary, in that order.

"My mother was active in 4-H and took in lots of wayward kids to come work the ranch," Mary Darrell recalls. "My dad was vice president of the American Quarter Horse Association and was inducted into the Quarter Horse Hall of Fame in 2001."

Not long after her husband passed away, Blair was kicked by a horse and hit her head on a railpost in what she still says was unconscious for about 30 minutes, but in her tough-cowgirl fashion, refused medical treatment. In later years, Mary came to believe their mother's forgetfulness was a byproduct of a brain bleed suffered during that accident.

Brother Cliff remembers he and his half-sister, Kris Darrell-Kroger, taking their mother to a

Auditor wants independent probe of taxes on premiums
He also wants superintendent of insurance removed from process

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BY DAN MCKAY AND COLLEEN HEILD
JOURNAL INVESTIGATIVE REPORTS

State Auditor Tim Keller said Monday that New Mexico should hire a new independent accounting firm to determine whether health insurance companies have been underpaying the premium taxes they owe.

He also said his office should supervise the new audit and that the superintendent of insurance should be removed from any potential settlement negotiations with the companies.

The potential underpayment is a "\$100 million question," Keller said in a meeting with Journal reporters and editors, adding that he isn't confident the state Office of the Superintendent of Insurance can provide an accurate answer.

Keller said he is "concerned that the department isn't as broken on this issue. We're not sure they're capable of dealing with this question, and that's the nicest way I can put it."

He said the Legislative Finance Committee

Police: Old Navy suspect had gun, flare, rifle, explosives

BY ELISE KARLAN
JOURNAL INVESTIGATIVE REPORTS

When Albuquerque police arrested 28-year-old David Hickman as a suspect in one of a string of fire-armed robberies and store in Albuquerque over the holiday months, they found a loaded gun in a holster on his hip, an emergency flare in his waistband, an AR-15 style rifle in the back seat of his car and several Mason jars containing an explosive substance.

He also had a list. On that list was "Old Navy" — the name of one of the stores targeted and the one he was seen fleeing from early Saturday.

That's according to a criminal complaint filed in federal court Monday.

The fire at Old Navy is one of eight instances of

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ALBUQUERQUE JOURNAL TUESDAY, NOVEMBER 29, 2016



Casey Darnell and his children sometime in the 1960s. Clockwise from right, Mary, Emily, Cliff and Kris Darnell.

Family members say they were shut out

FROM PAGE A1
doctor in 2005 or 2006 and being told she displayed early signs of dementia, not Alzheimer's. Nevertheless, no one denied Blair was having cognitive difficulties in her later years and needed assistance.

Emily and Mary say they were more than willing to help care for their mother but say they were shut out after Kris got the court involved. Kris Darnell-Kreyger has declined several requests to be interviewed for this story.

Under the Uniform Probate Code, proceedings in elder guardianship cases are sequestered, meaning none of the parties is allowed to speak about the case.

But the Journal has learned that on Jan. 6, 2016, a petition was filed in the court of Judge Beatrice Brickhouse by attorney Gregory MacKenzie on behalf of daughter Kris. In it, he outlined a dire picture of Blair Darnell's situation. The petition accused Mary, her mother's primary caregiver, of seriously neglecting her mother's medical needs and "self-dealing" by directing her mother's assets into questionable financial transactions.

MacKenzie also accused Emily and Cliff of less serious actions that adversely affected their mother.



ON THE COVER
TOP: Photo taken in the late 1970s of the three youngest Darnell children — Emily, Cliff and Mary. BOTTOM: Married in 1956, Casey and Blair Darnell raised champion quarter horses on their 17-acre ranch in the bosque on the west side of the Rio Grande.

COURTESY OF THE DARNELL FAMILY

statutory framework includes precautions to keep that from happening.

Siblings Emily and Cliff disagree, saying the negative portrayal of their sister, Mary, was completely untrue and none of them was given an opportunity to address the court in set the record straight. Pamalia Hunt, an Arkansas, Cliff said that all the siblings, including Kris, along with their mother, had fully discussed both land transactions and had agreed to go forward.

"It wasn't a hidden thing... it wasn't a crooked thing," Cliff said. "Mary had the power of attorney... She had all the authority to do what she did. We all knew what was happening."

numbers the first conservator (Decades) came up with after their investigation," he said. "It appeared to me that there was well over \$1 million missing from Mom's estate."

The three youngest Darnell siblings say that's impossible, because Blair had no major liquid cash reserves — her wealth mostly was tied in the land and horses. According to her children, Blair lived comfortably off the income from two family trusts administered in South Carolina and Louisiana, between \$60,000 and \$80,000 a year, plus her monthly Social Security benefits, which were as high as \$899.

Cliff Darnell noted that if an attorney had information that someone had stolen a million dollars from an incapacitated elderly person, "They should have been going after an indictment, but not 'self-dealing'."

System insiders
The day Kris Darnell-Kreyger's petition was filed, Judge Brickhouse appointed everyone attorney MacKenzie recommended.

Attorney Paul Progenitor was named Blair Darnell's guardian ad litem to represent her interest in court. Decades became Blair's temporary conservator for 90 days, during which time an evaluation was to be conducted to determine whether guardianship should be made permanent.

The judge also appointed MacKenzie's choice of Susan Stuart of Decades in Care LLC as court visitor to help assess the family situation and Rex Swanda, Ph.D., to conduct the neuropsychological testing of Blair Darnell.

Lawyers and others familiar with the system, which is highly secretive, say it is rare for the court-appointed team to come to court with findings that step or reverse the guardianship process.

The three Darnell siblings said that at first they were delighted to learn their mother was getting a court-appointed lawyer to look out for her best interests. But they then learned that Progenitor also had represented Decades in the past. So had attorney MacKenzie. When the family's conflict-of-interest complaint was raised by the court, Judge Brickhouse found no reason to change her guardian ad litem appointment. The judge declared Blair Darnell an "incapacitated person" and made her a permanent ward of the court.

During an interview at her law office last month, Progenitor told the Journal it is not unusual in a guardianship conservator case for one of the attorneys to have had a previous relationship with one of the parties.

Given Albuquerque's relatively small community of elder law attorneys, she said, "it is our practice to disclose that information up front so that everyone knows it. If there ever is an objection to my being able to provide an unbiased report, then I say I don't want to have anything to do with this."

At least how often Decades LLC has been recommended for appointment by MacKenzie, Orlin said she would estimate that he had referred to or fewer cases in Decades in the past 10 years. And she did not believe he had "referred a guardian or conservator case to us in several years."

Dr. Rex Swanda did not respond to requests for comment. Susan Stuart of Decades in Care declined an interview, writing in an email, "I feel it would be impossible to have a discussion with you without running the risk of disclosing matters that are protected by statute."

Decades' Orlin responded only to written questions submitted by the Journal and declined the system, saying, "The professional guardianship system was developed in the late 90s in response to the court cases occurring against our elders by family members."

Orlin could not comment on any individual case due to strict confidentiality, which is reinforced by all elder guardianship cases to ensure the ward's privacy.

But she said that in "most every case, family conflict is the reason Decades is appointed."

She said her company is not a strict confidentiality, which is reinforced by all elder guardianship cases to ensure the ward's privacy.

That's what happened in the Darnell case, court visitor Susan Stuart ultimately was assigned as permanent guardian.

For a while, the court allowed sisters Emily and Kris to be their mother's guardian, but ultimately, that did not work out when Kris resigned.

Stuart had determined that sisters Mary and Emily were "too close" and their relationship might pose a "family conflict," so she told the court they were not suitable to act as co-guardians for their mother. In the end, Judge Brickhouse moved Stuart from the court visitor position to guardian. Financial records provided by the Darnells show that for the period between January 2010 and August 2011, Stuart's Decades in Care was paid \$82,186.69 from Blair Darnell's estate.

In April 2016, Judge Brickhouse again took attorney MacKenzie's recommendation and named Albuquerque lawyer Darryl Millet as the permanent conservator for 79-year-old Blair Darnell.

Millet is an imposing man, one family member who doesn't wish him said. "Millet goes after people like a bull," and others who have dealt with him agree. Millet, however, says he is a dedicated professional with an excellent reputation.

Cliff Darnell is not a member of Millet's Jan club.

Cliff, who likes his father's prize horses, described Millet's demeanor as always aggressive and mercenary. "He's one way in front of the court; he is another way in front of me... and he can't handle a woman who's got backbone," he said.

TOMORROW: Part 4
One court appointee, multiple allegations of alienation, financial impropriety and questionable behavior from family members.