

Plea deal in Lilly's death



Gunman accused of killing 4-year-old girl in road rage incident is expected to enter plea agreement today

METRO & NM >> C1

HAPPY 50TH

New Mexico celebrates five decades of Pit basketball with a win over Abilene Christian



SPORTS >> D1

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JOURNAL INVESTIGATIVE REPORT - PART 5

WHO GUARDS THE GUARDIANS?

Deck stacked in favor of system insiders; dissident family members feel steamrolled as estates disappear



LAST IN A SERIES

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BY DIANE DIMOND

ALBUQUERQUE JOURNAL

Blair Darnell died on Nov. 18, 2015, at the age of 85. After a lifetime spent as a cowboy and raising champion quarter horses with her husband, Casey, the last five years of her life were spent under a court-ordered guardianship and conservatorship program approved by District Judge Beatrice Rodriguez.

After Blair Darnell's eldest daughter, Kris Darnell-Singer, disagreed with her siblings about what was best for their widowed mother and took the matter to court in January 2016, the nice close-knit family fractured. Blair, suffering early stages of dementia, was declared "incapacitated" by Judge Rodriguez, who appointed a team of for-profit professionals to, literally, take over every facet of Blair Darnell's life. As a "trust"

See FAMILIES >> A4



After Blair Darnell's death, many of her treasured items in her home were moved to a barn in Corrales, where an estate sale was held just last month.

COMING SUNDAY

Are there solutions?

Today concludes the Journal's five-part series on the problems and heartache many families experienced after their elder loved ones became wards of the state of New Mexico. On Sunday, reporter Diane Dimond offers some solutions proposed by affected families and advocates ready to fight for change.

Investigation sought in APD video charges

Police Oversight Board OKs formal investigation requests

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BY RYAN BOETEL

ALBUQUERQUE JOURNAL

Allegations that Albuquerque police have allowed or detected police videos — specifically in controversial shooting cases — have raised questions about what the public and independent oversight groups know about some of the most high-profile shootings in recent years, Police Oversight Board members say.

Board members voted Wednesday night to make two formal requests for investigations into the allegations.

One is to either the FBI or New Mexico State Police to determine whether any officers violated laws, such as tampering with evidence.

Another is an independent court who could determine whether any administrative rules were broken.

City officials have said they plan to hire an independent investigator to look into the allegations. Police Oversight Board Chairwoman Beth Mohr said that, although she isn't yet certain whether the allegations are true, they are severe accusations made against the police chief and high-ranking members of the police administration. She said, if

See BOARD >> A2

UNM regents meet to discuss report critical of Frank

Outside review criticizes president's communication, management style

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BY CHRIS GUNTAMA

ALBUQUERQUE JOURNAL

The University of New Mexico Board of Regents has scheduled a closed-door meeting today to discuss a report critical of President Bob Frank's interactions with staff. In the report, ordered by the regents, an outside investigator said she did not see Frank's behavior rising to the level of hostile work environment as defined under law, but she did see evidence of "shades of a hostile working environment." The report says, "Frank's treatment of faculty and staff is not appropriate and may rise to the level of bullying."

See UNM >> A2

NM WELCOMES OPEC'S PLANS TO CUT OUTPUT

Oil cartel has agreed to cut production for the first time in eight years, ending a strategy of high supply that has hurt the U.S. energy industry.

energy industry >> B1



Domenici to return to NM to advise Land Office

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BY DAN ROY

ALBUQUERQUE JOURNAL

SANTA FE — Former U.S. Sen. Pete Domenici, a power house of modern New Mexico politics, is moving back to New Mexico from Washington, D.C., and plans to take on a new role as an adviser to state Land Commissioner Aubrey Dunn.

Domenici, 91, who held several influential com-

municator posts during his 36-year tenure in the U.S. Senate, and was given the nickname "St. Pete" for his ability to help the state, announced Wednesday to and his wife, Nancy, will be returning permanently to New Mexico in mid-January. The Republican former senator said he is looking forward to returning to Albuquerque, where he grew up and previously held the job.

See DOMENICI >> A5

INSIDE CLASSIFIEDS >> C4 | COMICS >> B6 | EDITORIALS >> A6 | Q&A >> B4 | OBITUARIES >> C3 | PUZZLES >> B5, C4 | TV >> B3 | WEATHER >> B3

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Families feel steamrolled as estates disappear

From PAGE A1

of the court, Mrs. Darrell lost her civil rights to make her own decisions.

The Darrell estate, estimated at \$6 million when the court stepped in, dwindled to less than \$750,000. The monies were used to pay for Blair's simple living expenses — even though she had trust and Social Security income — and for a team of court-appointed guardianship professionals. The finances were administered by a powerful court-appointed conservator named Darryl Millet.

Today, Casey and Blair Darrell's three youngest children — Cliff, Emily and Mary — continue to soothe about how their parent's beloved 12-acre ranch was divided up, dismantled and finally sold off without their consent by conservator Millet — even though a family trust was in place, Kris Darrell-Kroer has declined several requests to be interviewed.

Millet told the Journal he was faithful in his duties to do what was best for Blair Darrell. Court officials said Judge Brickhouse could not comment on the case.

The Darrells cherished childhood ranch was a prime bouspie property with an extensive pasture and access to Rio Grande. It has been described as beautiful, unique and supportive of migratory bird habitat. The events that led to the family's losing the property can be tracked by court documents and other information uncovered by the Journal during a 16-month investigation. It is a complicated legal trail that, the three Darrell siblings say, was fraught with emotion and frustration and was extremely expensive for them to traverse.



The Darrell property was sold to a buyer in the fall of 2013 in what the family said was a "sweetheart" deal. The buyer sold it in April 2015 to the New Mexico Game and Fish Department for double the price.

Property sale

On March 24, 2013, Darryl Millet filed a motion with Judge Brickhouse requesting a hearing to approve his plan to sell the bulk of the Darrell ranch about 100 acres under the rules of the Uniform Probate Code, all guardian proceedings in New Mexico are strictly sequestered, kept secret, to protect the privacy of the ward.

Despite the secrecy, and the rule that a conservator may act independently of the family and is only required to report to the judge, Cliff, Mary and Emily Darrell learned that Millet had received a \$2.5 million offer on the property from a man named Bobbie. Mary, who has had her real estate license for 20 years, told that price was way too low. Through her attorney, Mary let the judge know of her professional opinion and that there was someone ready to offer much more for the ranch.

On April 1, 2013, a sworn affidavit was filed with the court informing the judge that the Darrells' longtime neighbor, Denny Gentry, was prepared to offer \$1.7 million for the 15-acre plot held in Cliff Darrell's "A" Trust. Gentry told the court he had expressed an interest in buying the property years earlier and that Blair Darrell had indicated that when the property was listed, we would



Mary Darrell with her partner, Dick Churchill, and their son, Casey. Mary was the primary caregiver for her mother, Blair Darrell, and her mother was placed under state guardianship.

have first right of refusal against any offer."

On April 10, Mary Darrell asked the court to hold a hearing on the matter. The next day, she filed an emergency motion to force the conservator to reveal documents related to his proposed plan.

On May 13, Judge Brickhouse held a closed hearing on conservator Millet's motion for approval of sale. Also on this day, Cliff Darrell filed his opposition to the proposed plan.

On June 25, after a flurry of back-and-forth pleadings and affidavits, Judge Brickhouse approved the \$1.54 million offer from Bobbie.

Despite that, there was no sale at this point. Because there is no transparency in this process, there is no public information available to explain why a higher offer was not pursued. And there is no way to determine why both the \$1.54 million offer and the \$1.7 million proposal ultimately fell through.

'Suspect'

On July 21, Mary Darrell, confused and concerned about the process, received an opinion from a real estate lawyer she consulted about the conservator's fiduciary responsibility to her family. In an email reviewed by the

Journal, the Albuquerque attorney wrote that after reviewing all the information Mary had sent, he considered the sale proposal Millet had submitted to the court to be "suspect," and said Millet should have required a Boulder as an independent third party.

In his letter to Mary Darrell, John Larson wrote, "It is black letter law that a trustee owes a fiduciary duty to both the present income beneficiary (Blair Darrell) and the remaindermen (the heirs). Even if the trustee's primary charge is to the current beneficiary, he cannot do anything which will compromise the remaindermen's interest."

On Oct. 29, Mary, with the blessing of brother Cliff and sister Emily, filed a motion asking Judge Brickhouse to require Millet to produce financial information on, in the alternative, to remove him as conservator/trustee.

The next day, before the judge could consider the motion, Millet entered a deal to sell the Darrell ranch to Tom L. Stromet for the even lower price of \$1.1 million.

According to the purchase agreement, the sale included the entire ranch — all 17 acres, including Blair Darrell's home and the two-acre parcel on which the horse stable sits. This, even though the two-acre parcel and home were

Get off the property

Denny Gentry was a friend of Blair and Casey Darrell's long before he bought the property next door in 2001. Both families were well known in the horse world. The Darrells were known for breeding championship horses. Gentry is the founder of the World Series of Team Riding. After Casey died in August 2001, the Gentrys made it a point to keep an eye on Blair and the three should she need help.

In early 2003, as Gentry drove past the Darrell property one day he noticed something he thought was suspicious. Outside the Blair home, there was a security guard and a man who identified himself as Darryl Millet, a court-appointed lawyer.

"He asked what I wanted so I explained I was a longtime neighbor and was checking on Blair," Gentry told the Journal. "He informed me that he was now in charge and had one minute to get off the property or he would call the law."

Millet did not respond to requests for comment for this story. Gentry had nothing good to say about watching Blair's plight under the guardianship conservatorship system. She was there in her late 70s, and the process made her life a living hell," he said. He recalled days when Blair would take walks over his home just so she could have a few minutes of freedom away from her court-ordered caretakers.

Gentry and his wife, Connie, watched in sorrow, he said, as his bid to buy the Darrell home and equipment were sold off by conservator Millet.

"The image I will always have in my mind," Gentry said, "is Millet with his hand on the lever, leading up her worn-out car out on a trailer, pushing Blair away with his other hand as she was kicking him in the shins."

"Truth is, the Friday night, Blair hadn't driven her old Jeep in a while, but Gentry said it had to have been a symbol of mobility and freedom to her and watching it being towed away to be sold was heart-breaking."

Why they spoke

The three Darrell siblings spoke openly to the Journal about their family's six-year relationship with the New Mexico guardianship system. They each spoke of the independence they felt watching their mother, Blair Darrell, lose both her independence and her dignity. They said they want to warn New Mexicans that it could happen to them. They want the system to be made better, more compassionate and responsive to the elder ward's loved ones so entire families can stay together until their parent's final days.

All the family members who spoke to the Journal said they felt as though they had nowhere to turn after their aging parent entered the guardianship conservatorship system. They each said they would highly recommend to the offices of the Albuquerque district attorney, the attorney general and to the governor, to do so.

Avoidance

Some are worried away from the system because of its problems. One retired Albuquerque attorney



Emily and Cliff Darrell with their mother, Blair Darrell.

told the Journal that a family member had, in his words, "kidnapped" his now-deceased mother, overmedicated her and forged documents to take control of her estate. He says he sought advice from a lawyer with expertise in the elder guardianship arena and as a professional, country was warned away from asking for the court's help.

He said he went to then-District Attorney Kent Brantingham, who he said told him the case was "too complicated" to pursue. He then turned to the state's top law enforcement officer. The office of Attorney General Hector Balderas told this attorney in a letter that, "Our

jurisdiction extends only to Medicaid provider billing fraud and abuse, neglect or exploitation of residents within facilities."

But the letter went on to say the AG's Office is "aware of the number of exploitation cases involving family members that occur outside the facility-exploitation context and agree that it is an issue of importance."

In cases in which a guardian is appointed, the judge ultimately is responsible for the appointee's behavior.

But families say that in their estimation, the judges they don't wish to be held responsible for the fallout needed.

Mary Darrell says she kept fighting what she saw as an unfair system, despite her battles with breast cancer along the way, because in quiet conversations toward the end of her mother's life, Blair had urged her "not to let the bastards win."

"My mother told me, 'Get those bastards changed so this doesn't happen to another family,'" Mary said. "And I intend to do that."



Dianne Dimond is an Albuquerque native and recipient of the American Bar Association's Silver Gavel Award. She has covered some of the nation's biggest stories — including the murder of Jonathan Renshaw, the Michael Jackson case and the Bush-Gore election recount in Florida — in a career that has included Court TV, MSNBC and the "Today" show. She is the author of three books on the criminal justice system. Dimond's column on crime and justice appears in the Journal every Saturday.

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Estate value shrank from over \$4 million to \$750,000

From PAGE A4

ranch this way: "The property represents one of the largest underdeveloped parcels of land fronting the Rio Grande River in this area. It provides prime access to the river and Albuquerque's Cottonwood Bosque, supports multiple species of migratory waterfowl including many duck species, Canada geese, and sandhill crane."

'All by design'

The three youngest Darnell heirs, worried that the real estate deal could come back to have major tax repercussions for them, refused to sign a final settlement agreement because conservator Millet insisted he be granted protection — a waiver of liability against future legal action — before closing out the estate and disbursing the inheritance.

Family members believe that demanding heirs to sign such a document under adversarial circumstances calls into play a state statute that says, in part, "A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent: (1) it was induced by improper conduct of the trustee."

Mary's lawyer wrote to her in April 2016 urging her to stop her

repeated requests for a full accounting of her mother's finances and questioning the conservator's actions.

"Millet and all the other lawyers made this a complex litigation case that has many layers. All by design," Patrick Westerfield wrote. "I do strongly recommend that you do agree to settle and move on."

Millet and other lawyers involved in guardianship matters say they cannot speak about individual cases, but that they are professionals dedicated to protecting the wards.

The three youngest Darnell siblings decided to fight on. They sought out a veteran certified public accountant with three decades of experience in estate and trust work to pore over the incomplete financial ledgers Millet had provided.

In a sworn statement, he declared to Judge Brickhouse, "The documents submitted by Mr. Millet, if they are to be a financial accounting, are inaccurate and substantively deficient ... nothing more than the printout of a check register."

Cliff, Emily and Mary continued to insist that the court order a full accounting. Then they learned how much that would cost them.

At the end of June 2016, Albuquerque's Modrall



Blair Darnell holds her grandson, Casey, who is Mary Darnell's only child.

COURTESY OF THE DARNELL FAMILY

law firm filed court papers on behalf of Millet to terminate his duties, approve all actions he had taken as Blair Darnell's conservator and trustee and to release him from any liability.

The motion also asked Judge Brickhouse to approve setting aside \$100,000 for final attorney's fees and to pay for the requested accounting. That last request rankled Cliff, Emily and Mary, who said they believe a conservator's duties should have included keeping a good accounting all along.

Cliff complains not

about any one person but the system.

"If you have no transparency, you can't expect judges and lawyers to self-regulate," he said. "With their hourly wage, there's no incentive to get it done. It is wrong that (the system) is not transparent."

Not wanting to have to set aside an additional \$100,000 of their inheritance, Cliff, Emily and Mary had what one described as a "come-to-Jesus meeting." As the first anniversary of their mother's death neared, they realized the longer they fought the more money they would lose.

They decided to hold their noses and sign a final settlement in which they agreed not to take future legal action against conservator Millet. In return, the Modrall firm's request to withhold \$100,000 was dropped.

District Judge Shannon Bacon, in an interview with the Journal, discussed the court's inability to audit the appointed conservator's annual reports. She said it is essentially an honor system between the judge and the appointed representatives and said eight of 10 judges in Albuquerque who hear guardianship cases each have more than a total of 1,000 cases on their dockets.

"New Mexico doesn't have three cents to rub together," Judge Bacon said. "Every year we ask the Legislature for more money, and every year we don't get it."

Guardians and conservators are not licensed in New Mexico, although they may have acquired various certifications. Some of those certificates can be purchased online after taking a short exam.

Nancy Oriola, CEO of the elder care firm Decades LLC, which handled some of the Darnell case, said she is a proponent of licensure for guardians ad litem and

court visitors. She said she is one of fewer than 100 professionals in the United States who are certified as Master Guardians.

Mostly gone

Court documents reviewed by the Journal show that when Decades was appointed as the first guardian/conservator for Blair Darnell, the firm initially valued her estate at between \$4 million and \$5 million. Recently obtained financial statements indicate the remaining balance is now less than \$750,000, to be split four ways.

On Sept. 30, Judge Brickhouse signed the agreement officially terminating the guardianship and conservatorship of Blair Darnell. It had been nearly six years of court involvement with the Darnell family and about 11 months since Blair Darnell's death.

"I want it to be over," Emily told the Journal. "I want to get on with our lives ... (but) they have a way of perpetuating things," she said. "How do you fight this if you are a normal human being? What do they want? They already got (Mother). They took her final years ... and almost all her money. Aren't there some checks and balances that say enough is enough?"