

IN THE COUNTY COURT OF DOUGLAS, NEBRASKA

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IN RE GUARDIANSHIP/CONSERVATORSHIP OF LINDA LEFEBVRE DONAHUE,
A Protected Person

Case No.: PR 22-1652

**MOTION TO ALLOW LINDA LEFEBVRE DONAHUE TO ATTEND MASS,
CONFESSION, COMPLETING PREMARITAL PREPARATION, PLANNING THE
WEDDING MASS, AND PARTICIPATE IN THE SACRAMENT OF HOLY
MATRIMONY—A RELIGIOUS MARRIAGE CEREMONY**

COMES NOW, Steven John Donahue, Petitioner, respectfully moving this Court to issue an order authorizing Linda Lefebvre Donahue, a protected person, to attend Mass, Confession, complete premarital preparation, plan the wedding Mass, including shopping for rings, planning a reception, and acquiring shoes, a purse, and other marriage accouterments, and participate in the Sacrament of Holy Matrimony at the Church of the Holy Spirit, located at 520 South 18th Street, Plattsmouth, NE 68048, on August 12, 2025. This has been their desire since they first met and fell in love in early 2007. The motion further requests that Linda's brother-in-law, Robert Donahue, and his wife, Mary Jane Donahue, be permitted to participate as best man and maid of honor without restriction. This is an urgent matter, as completion of all sacraments, including marriage, is required for a Catholic burial under Canon Law 1176 and Catholic teaching, ensuring eligibility for burial at the Holy Sepulchre Catholic Cemetery (**Exhibit G**). This motion is brought pursuant to the Court's authority under Neb. Rev. Stat. Section 30-2601 et seq., the U.S. Constitution, federal law, Centers for Medicare & Medicaid Services (CMS) regulations, and relevant case law, as well as the Holy Catholic Church's Canon Law. In support of this motion, Petitioner states as follows:

I. Background

1. **Relationship and Marriage:** Petitioner and Linda Lefebvre Donahue were lawfully married in a civil ceremony on April 6, 2009, as evidenced by the marriage certificate attached as **Exhibit A**. The couple seeks to solemnize their existing marriage through a religious ceremony at the Church of the Holy Spirit, where they have been active members since early 2023, fulfilling a desire they have held since meeting and falling in love in early 2007. This sacrament is urgent to ensure eligibility for a Catholic burial (**Exhibit G**).
2. **Linda's Residence:** Linda currently resides at Prestige Care Center, 602 S. 18th Street, Plattsmouth, NE 68048, a CMS-certified facility subject to federal and state regulations governing resident rights.

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3. **Religious Participation:** Since early 2023, Petitioner and Linda have been members of the Church of the Holy Spirit, as corroborated by a letter from Bishop James D. Conley of the Diocese of Lincoln (**Exhibit H**). Other residents of Prestige Care Center, including those with medical equipment such as oxygen tanks, are permitted to attend Mass every Saturday, but Linda has been arbitrarily restricted from doing so, despite her expressed desire to participate in Mass, Confession, premarital preparation, wedding Mass planning, and the religious marriage ceremony. No written rule prohibits her attendance, and the guardian has provided no justification for this restriction.
4. **Documentation:** All necessary sacramental documents, including baptismal, confirmation, and First Communion records for both Petitioner and Linda, have been procured and are in order for the religious marriage ceremony scheduled for August 12, 2025, consistent with Canon Law (**Exhibit J**). These records are attached as **Exhibits B–F** (Baptismal Record of Linda Lefebvre, First Communion Record of Linda Lefebvre, Confirmation Record of Linda Lefebvre, Baptismal Record of Steven Donahue, First Communion and Confirmation Record of Steven Donahue). All documents have been filed, all official forms filled out, and all permissions granted by the Church of the Holy Spirit and the Diocese of Lincoln for the Sacrament of Holy Matrimony to proceed, as confirmed by Bishop Conley’s letter (**Exhibit H**). The couple’s commitment to the Catholic faith is further evidenced by their ownership of a burial plot at the Holy Sepulchre Catholic Cemetery in Plattsmouth, attached as **Exhibit G**, which requires completion of all sacraments for burial eligibility under Canon Law 1176 (**Exhibit K**).
5. **Necessity of Mass Attendance:** Linda’s immediate participation in Mass is a necessity for her mental, physical, and spiritual health, as regular worship supports her well-being and aligns with her lifelong Catholic faith (**Exhibits B, C, D**). Denying her access to Mass risks emotional and spiritual distress, violating CMS regulations (42 C.F.R. Section 483.10(f)) and her constitutional rights (**Exhibit I**). The guardian’s restriction on her attendance, while other residents are permitted, is arbitrary and unsupported by any health concerns.
6. **Wedding Preparations and Participation:** The religious marriage ceremony involves premarital preparation, planning the wedding Mass, shopping for rings, planning a reception, and acquiring shoes, a purse, and other marriage accouterments. Linda’s brother-in-law, Robert Donahue, and his wife, Mary Jane Donahue, are intended to serve as best man and maid of honor, respectively. There are no health risks associated with these activities, as they are standard religious and social practices that pose no harm to Linda’s well-being.
7. **Counterargument:** The sole counterargument raised is a claim that Linda has dementia and lacks the capacity to make spiritual decisions. However, Linda’s desire to participate

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in religious activities and the religious marriage ceremony aligns with her lifelong Catholic faith, as demonstrated by her sacramental records (**Exhibits B, C, D, F**), church membership (**Exhibit H**), and burial plot (**Exhibit G**). The proposed ceremony reaffirms an existing civil marriage (**Exhibit A**), not a new union, and poses no health risks. The urgency of completing the marriage sacrament for Catholic burial eligibility, combined with the necessity of Mass for her health, further supports her right to participate.

II. Legal Basis

Petitioner asserts that Linda's rights to attend Mass, participate in Confession, complete premarital preparation, plan the wedding Mass, and engage in a religious marriage ceremony, including associated activities and participation by Robert and Mary Jane Donahue, are protected under federal and state law, as well as constitutional guarantees. A guardian cannot restrict these religious activities absent evidence of harm, which is not present here. The following authorities support this motion:

A. Centers for Medicare & Medicaid Services (CMS) Regulations

8. **Resident Rights in CMS-Certified Facilities:** Under 42 C.F.R. Section 483.10, residents of CMS-certified nursing homes, such as Prestige Care Center, have the right to exercise their freedoms without interference, including the right to participate in religious activities. Specifically:
 - **42 C.F.R. Section 483.10(f)(1):** Residents have the right to “exercise their rights as a resident of the facility and as a citizen or resident of the United States” without discrimination or coercion.
 - **42 C.F.R. Section 483.10(f)(4):** Residents have the right to “interact with members of the community both inside and outside the facility,” which includes attending religious services and engaging in wedding preparations.
 - **42 C.F.R. Section 483.15(a)(3):** Facilities must promote resident participation in activities, including those of a religious nature, consistent with resident preferences.
9. **Application:** Linda's expressed desire to attend Mass, Confession, complete premarital preparation, plan the wedding Mass, shop for rings, plan a reception, and participate in a religious marriage ceremony falls within these protections. The guardian's restriction on her attendance, while allowing other residents to attend Mass, violates CMS regulations and discriminates against her religious exercise, as evidenced by her church involvement (**Exhibit H**). No health risks are associated with these activities, and the guardian has no authority to restrict them, especially given the necessity of Mass for Linda's mental, physical, and spiritual health and the

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urgency for Catholic burial eligibility.

B. U.S. Constitution

10. **First Amendment – Free Exercise Clause:** The First Amendment to the U.S. Constitution, attached as **Exhibit I**, guarantees the free exercise of religion. This fundamental right extends to individuals under guardianship, absent a compelling state interest to restrict it. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993) (government restrictions on religious practice must be narrowly tailored and serve a compelling interest).
11. **Application:** Linda’s participation in Mass, Confession, premarital preparation, wedding Mass planning, and a religious marriage ceremony constitutes core religious exercise, consistent with her lifelong Catholic faith (**Exhibits B, C, D, F, G**). A guardian cannot restrict these activities, nor the participation of Robert and Mary Jane Donahue, without meeting strict scrutiny, which the mere claim of dementia does not satisfy, especially given her consistent religious engagement (**Exhibit H**) and existing civil marriage (**Exhibit A**). The necessity of Mass for her health and the urgency of completing the marriage sacrament for Catholic burial further compel granting this motion.

C. Nebraska Constitution and Statutes

12. **Nebraska Constitution, Article I, Section 4:** “All persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. . . . It shall be the duty of the Legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship.” Neb. Const. art. I, Section 4. *See Parish of the Immaculate Conception v. Murphy*, 89 Neb. 524, 131 N.W. 946 (1911) (courts must protect religious denominations in their peaceable enjoyment of worship).
13. **Nebraska Guardianship Statutes:** Under Neb. Rev. Stat. Section 30-2628, a guardian’s authority is limited to decisions that promote the ward’s well-being and must respect the ward’s known preferences and values. A guardian may not restrict a ward’s fundamental rights, including religious freedom, without clear evidence of harm, which is absent here, as attending Mass, Confession, and wedding preparations pose no health risks.
14. **Nebraska Marriage Statutes:** Neb. Rev. Stat. Section 42-101 et seq. governs marriage in Nebraska. Since Petitioner and Linda are already civilly married (**Exhibit A**), the proposed religious ceremony does not create a new legal contract but reaffirms their existing union in a religious context, consistent with Canon Law (**Exhibit J**). No statute permits a guardian to prohibit a ward from participating in a religious marriage ceremony or associated activities, particularly when all documents and permissions are complete (**Exhibit H**) and the activities are urgent for Catholic burial eligibility.

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15. **Application:** The Nebraska Constitution and statutes protect Linda's right to engage in religious activities without guardian interference. The guardian's claim of dementia does not override these rights, as no health risks are associated with the requested activities or the participation of Robert and Mary Jane Donahue, and the necessity of Mass and burial eligibility strengthens this claim.

D. Federal Law

16. **Religious Land Use and Institutionalized Persons Act (RLUIPA):** 42 U.S.C. Section 2000cc et seq. protects the religious exercise of institutionalized persons, including nursing home residents. RLUIPA prohibits substantial burdens on religious exercise unless the restriction furthers a compelling governmental interest and is the least restrictive means. *See Holt v. Hobbs*, 574 U.S. 352 (2015) (RLUIPA applies to institutionalized settings and requires strict scrutiny).
17. **Americans with Disabilities Act (ADA):** 42 U.S.C. Section 12101 et seq. prohibits discrimination based on disability, including dementia, in access to public accommodations and services. Restricting Linda's access to religious services while allowing other residents to attend violates the ADA.
18. **Application:** RLUIPA and the ADA reinforce Linda's right to engage in religious activities without undue restriction by a guardian. The guardian's actions impose substantial burdens that fail strict scrutiny, as no health risks justify limiting Linda's participation or that of Robert and Mary Jane Donahue, particularly given the urgent need for sacramental completion and the necessity of Mass for her health.

E. Case Law

20. **Nebraska Case Law:** In *In re Guardianship & Conservatorship of Cordel*, 274 Neb. 545, 741 N.W.2d 675 (2007), the Nebraska Supreme Court held that "any person interested in the welfare" of a protected person has standing to intervene in guardianship proceedings, supporting Petitioner's right to bring this motion. Guardians must act in the ward's best interests, which includes respecting their religious preferences unless contraindicated by clear evidence of harm, which is not present here.
21. **Federal Case Law:** In *Cruzan v. Director, Missouri Dep't of Health*, 497 U.S. 261 (1990), the U.S. Supreme Court recognized that competent adults have a liberty interest in making personal decisions, including those tied to religious and familial matters. Even for incapacitated persons, courts must consider their prior expressed wishes and values. Linda's lifelong Catholic faith (**Exhibits B, C, D, F, G**) and church membership (**Exhibit H**) demonstrate her intent to engage in these religious practices, a desire held since 2007.

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22. **Application:** Case law supports Linda's right to have her religious preferences honored. A guardian cannot restrict her participation in religious activities or the involvement of Robert and Mary Jane Donahue absent evidence of harm, which does not exist, especially given the urgent need for Catholic burial eligibility and the necessity of Mass for her health.

III. Addressing the Counterargument

24. **Alleged Dementia and Capacity:** The claim that Linda has dementia and cannot make spiritual decisions does not justify restricting her religious rights or participation in a religious marriage ceremony. Under Neb. Rev. Stat. Section 30-2628, a guardian's authority is limited to decisions that promote the ward's well-being and must align with the ward's known values. Linda's lifelong Catholic faith (**Exhibits B, C, D, F, G**), consistent religious engagement (**Exhibit H**), and civil marriage to Petitioner since 2009 (**Exhibit A**) demonstrate her intent and capacity to make these spiritual decisions, a desire held since 2007. No health risks are associated with these activities, and the urgency for Catholic burial eligibility under Canon Law 1176 (**Exhibit K**) and the necessity of Mass for her health compel her participation.
25. **No Harm from Participation:** There is no evidence that attending Mass, participating in Confession, premarital preparation, wedding Mass planning, shopping for rings, planning a reception, acquiring marriage accouterments, or engaging in a religious marriage ceremony would harm Linda. Denying her these rights risks emotional and spiritual distress, violating CMS regulations and constitutional protections (**Exhibit I**). The participation of Robert and Mary Jane Donahue poses no harm and aligns with Linda's wishes.
26. **Existing Marriage:** The proposed religious ceremony does not create a new legal marriage but solemnizes an existing civil union (**Exhibit A**), consistent with Canon Law requirements for sacramental marriage (**Exhibit J**). Concerns about capacity to enter a new marriage contract are inapplicable, as no new civil contract is being formed. *See* Neb. Rev. Stat. Section 42-101 (marriage as a civil contract requires consent, but religious solemnization is not subject to the same scrutiny).

IV. Guardian's Authority

28. **Limits of Guardian Authority:** A guardian may not arbitrarily restrict a ward's fundamental rights, including religious freedom, without evidence of harm. *See* Neb. Rev. Stat. Section 30-2628. The guardian's restriction on Linda's attendance at Mass, while other residents are permitted, lacks justification and violates her rights under CMS regulations, the U.S. and Nebraska Constitutions (**Exhibit I**), and federal law. No health risks support this restriction, and the guardian has no authority to limit Linda's religious activities or the participation of Robert and Mary Jane Donahue, particularly given the necessity of Mass for her health and the

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urgent need for sacramental completion.

29. **Marriage Rights:** A guardian cannot prevent a ward from participating in a religious marriage ceremony that reaffirms an existing civil marriage, particularly when the ward has expressed a desire to do so since 2007, all documents and permissions are complete (**Exhibit H**), and the ceremony has a history of religious engagement (**Exhibits A–J**). *See In re Guardianship of Peterson*, 265 Neb. 730, 658 N.W.2d 909 (2003) (guardians must respect ward’s autonomy to the extent possible). The guardian’s restriction on wedding preparations and participation by Robert and Mary Jane Donahue is unlawful absent evidence of harm, and the urgency for Catholic burial eligibility compels immediate relief.

V. Relief Requested

WHEREFORE, Petitioner respectfully requests that this Court:

1. **Order** that Linda Lefebvre Donahue be permitted to attend Mass forthwith at the Church of the Holy Spirit, as it is a necessity for her mental, physical, and spiritual health, consistent with her expressed wishes and the rights of other residents at Prestige Care Center.
2. **Order** that Linda be allowed to complete premarital preparation, plan the wedding Mass, shop for rings, plan a reception, acquire shoes, a purse, and other marriage accouterments, and participate in a religious marriage ceremony with Petitioner on August 12, 2025, at the Church of the Holy Spirit, as all documents have been filed, forms completed, and permissions granted (**Exhibit H**), and as an urgent matter to ensure eligibility for a Catholic burial under Canon Law 1176 (**Exhibit K**).
3. **Order** that Robert Donahue and Mary Jane Donahue be permitted to participate as best man and maid of honor in the religious marriage ceremony without restriction by the guardian.
4. **Enjoin** the guardian and Prestige Care Center from restricting Linda’s participation in these religious activities or the involvement of Robert and Mary Jane Donahue absent a showing of harm.
5. **Grant** such other and further relief as the Court deems just and proper.

VI. Exhibits

The following exhibits are attached in support of this motion:

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- **Exhibit A:** Marriage Certificate of Steven Donahue and Linda Lefebvre, Dated April 6, 2009
- **Exhibit B:** Baptismal Record of Linda Lefebvre
- **Exhibit C:** First Communion Record of Linda Lefebvre
- **Exhibit D:** Confirmation Record of Linda Lefebvre
- **Exhibit E:** Baptismal Record of Steven Donahue
- **Exhibit F:** First Communion and Confirmation Record of Steven Donahue
- **Exhibit G:** Documentation of Burial Plot, Holy Sepulchre Catholic Cemetery in Plattsmouth
- **Exhibit H:** Letter from Bishop James D. Conley, Diocese of Lincoln
- **Exhibit I:** Relevant Excerpts of the U.S. Constitution (First Amendment)
- **Exhibit J:** Copy of Canon Law 1118
- **Exhibit K:** Copy of Canon Law 1176

VII. Certification

Petitioner certifies that this motion is brought in good faith, supported by law and evidence, and is not frivolous. *See* Neb. Rev. Stat. Section 25-824 (sanctions for frivolous pleadings).

DATED this 23rd day of May, 2025.

Respectfully submitted,

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