



Movies

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'99% of the world has no idea': inside the shocking legal guardianship industry

In dark Netflix thriller *I Care a Lot*, a predatory court appointed guardian wreaks havoc, a story that's far closer to reality than one would expect



David Smith *in Washington*

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"My mother: I should be able to see her whenever I want," a man pleads to a judge at the start of the splashy new Netflix movie *I Care a Lot*. "She doesn't need to be in a care facility, she doesn't need a court appointed guardian. She has a loving son to take care of her. I just don't understand how the court can entrust my mother to this stranger."

Increasingly anguished as an icy Marla Grayson, played by Rosamund Pike, looks on, he pleads: "Miss Grayson forced my mother into the home when she made it very clear that she didn't want to go and now she's auctioned off my mother's house, her car, her personal belongings and she uses the proceeds to pay herself. And now Miss Grayson's barred me from seeing my mother at all. It's a goddam nightmare. She's kidnapped my mother!"

The film is fiction but the story all too familiar to thousands of Americans whose elderly parents have been entrapped by little scrutinised guardianship programmes. Many speak of a sense of helplessness in the face of a system rife with the abuse, neglect and profit-driven exploitation of vulnerable people.

The opening scene of *I Care a Lot*, for example, would strike a chord with Doug Franks. When he and his brother Charles could not agree where their 89-year-old mother Ernestine should live, the dispute led a judge to appoint a guardianship company to take over her care. It was the beginning of a four-year nightmare.

Franks, whose visits to her were restricted to just a few hours at a time, recalls: "They would go out and buy meals like a bucket of Kentucky Fried Chicken for my mom. She needed to have a heart healthy diet and she wasn't on one, so she was on food that was actually causing her demise sooner than it should have."

Guardianship describes a legal relationship created by a court between a guardian - a family member or a professional - and a person who is usually elderly and deemed to be of diminished capacity. Guardians wield remarkable power, often deciding where that person should live, how much access family members should have, when to seek medical care and how to spend their retirement savings.



Netflix



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An estimated 1.3 million adults are under the care of guardians who control about \$50bn of their assets. The little understood system has long suffered a lack of oversight, transparency and basic protections.

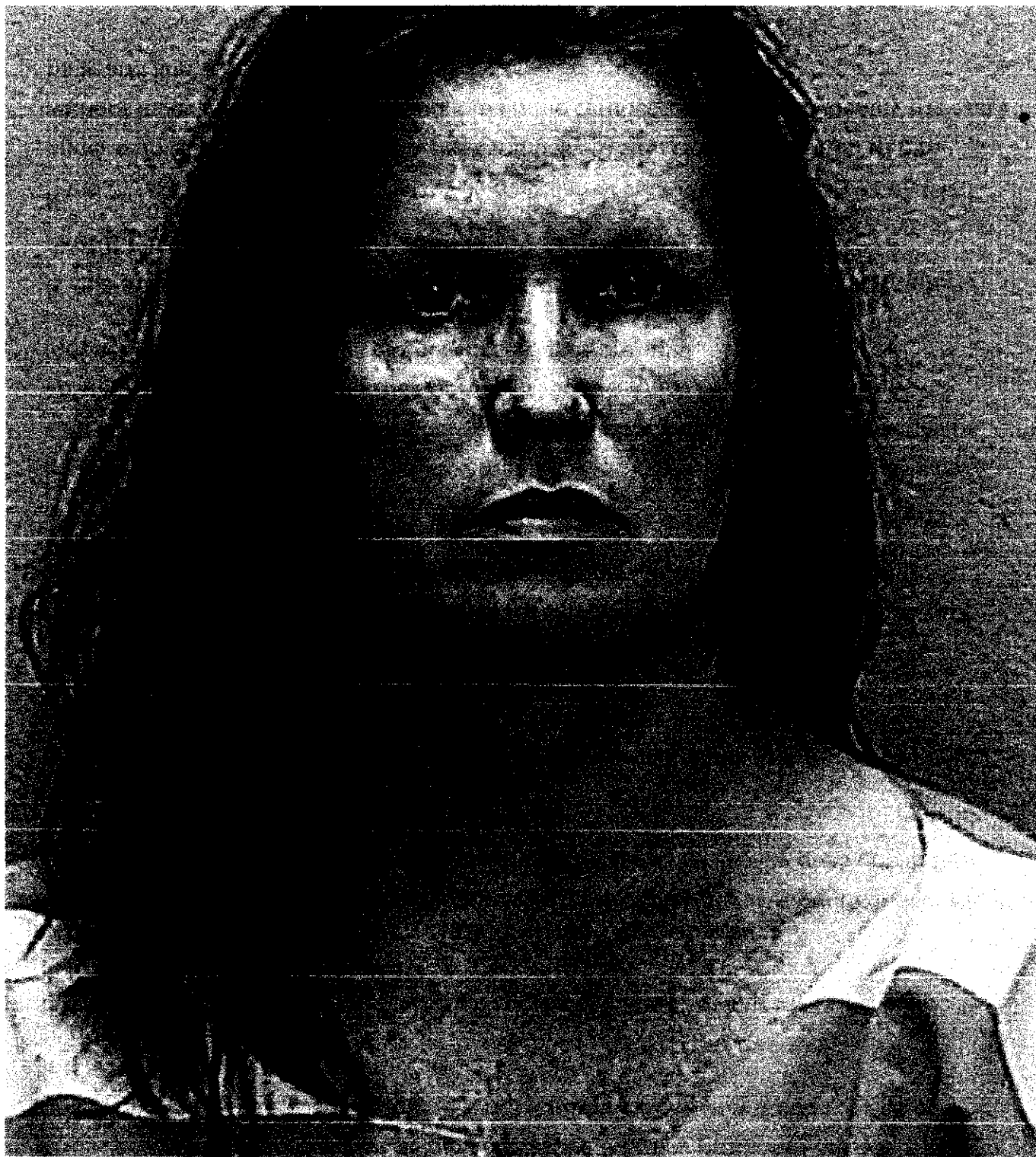
Karen Buck, executive director of the SeniorLAW Center in Pennsylvania, said: “It is the state coming in and taking away your most fundamental decisions, your fundamental right to autonomy, and giving those decisions to someone else who may be a total stranger to you. So it is a very drastic measure and it just simply doesn’t get that much attention until there is crisis and scandal.”

This a reflection on the way that older people are not valued in America, Buck added. “Most of the people under guardianship are older and in this country we have historically not valued the lives of older people, not valued their healthcare sufficiently, not valued their long term care sufficiently, not valued their independence and their contributions.”

In *I Care a Lot*, Grayson is an unscrupulous court-appointed legal guardian who defrauds her older clients and traps them in her care. She divides the world between predators and prey with herself firmly in the former category. Although the movie, costarring Peter Dinklage and Eiza González, soon veers into deliciously improbable dark thriller territory, its initial premise is grounded in harsh reality.

Sam Sugar, founder of the organisation Americans Against Abusive Probate Guardianship, says: “I’ve seen previews and it accurately depicts what a guardian does and how they act with absolute impunity and brazen cold hearted no-care-whatsoever as long as they win and as long as the winning means they get the money of the person they protect.





Rebecca Fierle-Santoian had 450 guardianships when she resigned amid a criminal investigation.
Photograph: AP

“It’s an astounding phenomenon. I was shocked when I learned about it 10 years ago and 99% of America, 99% of the world has absolutely no idea how dangerous it is and how easy it is for anyone to be trapped in it.”

He noted the case of Rebecca Fierle-Santoian who, at one time had 450 guardianships in Florida, was last year arrested on abuse and neglect charges following the death of a 74-year-old man under her guardianship in Tampa. A local

law enforcement agency said she had obtained an order to cap the man's feeding tube, ignoring doctors who told her this would probably cause his death.

Sugar, author of *Guardianships and The Elderly: The Perfect Crime* and one of the sharpest critics of the system, continues: "What happens in these cases is litigate, isolate, take the estate, cremate. In other words the lawyers identify, or have identified for them, a potential victim, go to the judge and the judge starts the process of evaluating someone for incapacity. It's all done in secret; no one shares any of the information."

"The affected person or their family has little or sometimes no notice at all that this is happening and, by the time they're aware of it, it's too late to even hire a lawyer. The whole system is based on one thing only and that is a transfer of wealth. No one in the court system cares about the elderly person and if you try to fight that system, you will become bankrupt."

He adds: "The elderly are stripped of their rights: every dime, every asset, every holding, every account. All goes under the control of a guardian who is neither monitored nor supervised."

Yet the issue has received far less attention than child abuse. Precise data is notoriously hard to come by. Each of the 50 states has its own system, court records are often sealed and there is a lack of standardised reporting. In Nevada, for example, the situation used to be "pretty egregious", recalls Barbara Buckley, executive director of the Legal Aid Center of Southern Nevada.

"We had one for-profit guardian who was taking advantage of individuals and families through predatory behaviour," she says. "She would knock on people's doors and say there's now a guardianship placed and I'm your guardian and proceed to take them out of their lovely home, sell all their memorabilia and put them in a horrible place, isolate them."





Rosamund Pike in I Care A Lot Photograph: Seacia Pavao/AP

“And then when the family members found out about it, they would contest it and the guardian’s attorney was very wily. They would say, ‘Oh, well, this family member has an anger problem or had a drug problem’. And they would somehow make it seem like they were the fair one, the neutral one, the one that had no blame.”

In 2015, the Nevada supreme court created a guardianship commission to examine the guardianship system and introduce reforms. One is that when someone files a guardianship, a legal counsel without a profit motive is appointed for the proposed protected person, who gets a say in choosing their guardian and what the rules are.

Buckley says: “That’s our office and the key to the statute is that it’s independent. We are not paid for from the estate. We have no vested interest in seeing it drag on or have our own financial motive and we operate by principles that we feel the proposed protected person has rights. Just because someone’s under a guardianship doesn’t mean they shouldn’t be able to control key aspects of their own care. Someone doesn’t become a piece of chattel.”

In I Care a Lot, an elderly woman is put in a care home by Grayson and is soon denied her mobile phone or even the right to step outside for fresh air. Her angry resistance to the incarceration is seen as proof that she is unstable and poses a risk to herself and others.

Franks, however, did finally win his mother’s liberty after lobbying officials testifying at numerous hearings, although he says by then more than \$200,000 had been withdrawn from her trust fund, partly to pay her guardian’s lawyers.

“She was terribly impacted but she got over it,” says the 63-year-old from Acworth, Georgia. “I had to give her an enema and I had a care worker there. To do something like that for your mom is like, ‘Jesus, I don’t really want to do this’, I had to, whatever it took. I got her so that she was regular. That’s how much I loved her and how much I didn’t want her to be in pain and these people didn’t give a shit.”

Franks, a tech consultant who continues to push for guardianship reforms, becomes emotional as he recalls how he was born with dyslexia and his mother did everything she could to get him help after school. "For something like this to happen to her and for me not to fight wasn't an option.

"I was never going to stop until I freed her and I did. I got her free and had the opportunity to be with her for 45 days of freedom and she died in my arms. That day was one of the best days we'd ever had. We laughed and joked and I was able to tell her I loved her and that everything would be all right. She was about two weeks away from being 95."

I Care A Lot is available on Netflix in the US on 19 February and on Amazon Prime in the UK