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# Supreme Court appeal overturns previous decision about guardianship order on amputee's right to live alone on his yacht

A long-running case about a Tasmanian man's right to live alone on his yacht after his discharge from hospital has had another development, with a panel of judges making a decision on an appeal.

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 [@cwhiteley12](#)  2 min read October 21, 2020 - 2:43PM

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A TASMANIAN amputee determined to continue living alone on his yacht should have had a public guardian to make decisions about his accommodation arrangements, a Supreme Court appeal has ruled.

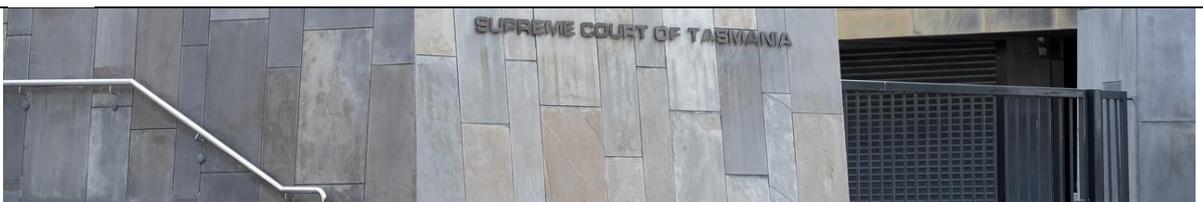
In a decision handed down on Wednesday, a panel of three judges overturned another judge's previous finding, in the latest development of a drawn-out legal proceeding about the man's right to live on the yacht after his discharge from hospital.

The mature-aged man, who is now deceased, had lived aboard the yacht until May 2018 when the vessel ran aground in a storm.

He was then admitted to the Royal Hobart Hospital suffering from a gangrenous foot, undergoing four surgical procedures and an amputation of his right leg above the knee in early July.



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Hobart Supreme Court. Picture: CHRIS KIDD

He required a wheelchair, was immobile and could not use crutches, but told medical staff he intended to return to live on the yacht.

Following an assessment of the man's living arrangements and testimony from medical professionals, an application was made in August 2018 to the Guardianship and Administration Board for the appointment of a public guardian for the man.

Two months later, the order was granted, with the guardian having limited powers concerning decisions about the man's accommodation, but the man successfully appealed against it and returned to live on his boat.

In April last year, Justice Helen Wood said while there were "legitimate concerns about the [man's] safety", the board did not satisfy the requirements to make an order that would give it

power over where the man was to live.

The Tasmanian Health Service then appealed that decision, and the three judge panel this week decided by majority in favour of the appeal.

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After the oral hearing of the appeal was completed but before the reasons of the court were delivered, the man died.

Justice Michael Brett and Acting Justice Brian Martin said the appeal should be allowed and the original judge's decision set aside, while Justice Gregory Geason said the appeal should be dismissed.

In a 27-page decision listing the judge's reasons, Justice Brett agreed with Acting Justice Martin's view that based on the evidence of medical professionals, the man was "unable to make reasonable judgments about his accommodation" due to cognitive impairment.

Acting Justice Martin said it was his view that Justice Wood had erred in finding otherwise.

The appeal judges' decision referenced a report that said health staff had visited the man's yacht and observed that no available modifications would make the boat a safer location for the man to live after he was discharged.

It noted the report said the man could not appreciate the safety concerns and demonstrated "poor insight, reasoning and problem solving skills" about his level of disability.

Another medical professional said there was a "significant risk of injury" to the man if he returned to living unsupported on his boat.

Justice Geason argued each of the three grounds of appeal of Justice Wood's decision should be dismissed, and that the judge had not erred in making her decision.

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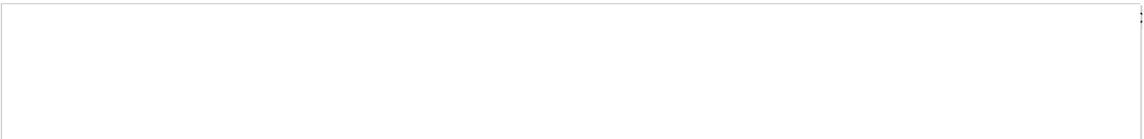
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