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Why Won't the Colorado Courts Let This Latvian Girl Go Home?

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By Alan Prendergast

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People who have met the girl describe her as talkative and playful. She's bright, outgoing, a bundle of energy and curiosity, always on the move.

She just celebrated her sixth birthday a few weeks ago, but she's already traveled to more places, in Europe and across America, than many girls two or ten times her age. She speaks two languages, has dual citizenship in Latvia and the United States, knows her way around an airplane, makes friends easily.

Court papers refer to her by her initials. We'll call her L.G. — short for Latvian Girl.

Born in America but raised primarily in Latvia, L.G. landed back in the United States last January. She was accompanied by her father, a Latvian businessman with strong ties to Colorado, and a woman named Edite Dusalijeva, who'd been hired as a nanny when the girl wasn't yet two — but Dusalijeva had become much more than that. L.G. called her Mommy; she was actually one in a series of mothers, but Dusalijeva had been there for as long as L.G. could remember. The three were a family unit: Daddy, Mommy, L.G.

Just how long L.G.'s father intended to remain in America and what his plans were for his daughter are matters of some dispute. The three of them had only been in Colorado a few weeks, living in a condominium in southeast Denver, when the father, an avid skier and swimmer, suffered a fatal heart attack. He was 73 years old.

As with any unexpected death, there was shock, then a hunt for important documents. L.G.'s father had executed a will in Latvia in 2012, another in Colorado in 2014. Both wills designated Dusalijeva as the guardian of L.G. The Colorado will, which superseded the previous one, named L.G. as the primary beneficiary of the bulk of his estate, valued at more than seven million dollars.

Two weeks later, Dusalijeva made her first trip to [Denver Probate Court](#). She was accompanied by an attorney and an interpreter; the attorney was also representing Mara B., L.G.'s half-sister, a daughter from her father's first marriage, who lives in another state. By phone, Mara expressed her interest in being appointed a temporary co-guardian for L.G., whom she'd met only twice

before their father's death.

At the hearing, Dusalijeva, who speaks little English, described her relationship to L.G.: "I'm everything. I'm a nanny. I'm a mother. I'm a custodian." But she seemed to be amenable to the plan to have Mara assist her as co-guardian. Magistrate Ruben Hernandez wasn't sure he had jurisdiction in the matter — L.G. hadn't lived in Colorado the required six months for the probate court to have authority over her — but he agreed to an "emergency" appointment of co-guardians.

The next time Dusalijeva and Mara went back to court, they had separate attorneys. In fact, more lawyers kept joining the scrum. Three for Mara. One for Dusalijeva. One for the personal representative in charge of the estate. One serving as a guardian ad litem, appointed by the court to protect L.G.'s interests. One representing a young couple in Highlands Ranch who met L.G. after her father's death and now, with Mara's support, wanted her to join their family. Other lawyers on the phone, testifying from Latvia.

By late summer, the battle over who would be L.G.'s guardian was in high gear. There were questions about how removing L.G. from the only mother she'd known for the past four years might impact her psychologically, and questions about whether keeping the girl in the United States would violate the Hague Convention. There were suggestions that Dusalijeva, a woman in her early sixties, was too old to raise L.G., or possibly too stern and overprotective. There were insinuations that life in Latvia couldn't possibly be as good as life in Colorado, reducing a difficult choice between two very different futures to a matter of weather and infrastructure.

Judges are supposed to make complicated custody decisions based on what they consider to be the best interests of the child. Because of privacy issues, such decisions rarely receive public scrutiny. But Denver probate judge Elizabeth Leith's ruling in L.G.'s case, appointing the couple in Highlands Ranch to raise her, has provided a bitter education in the American legal system for Dusalijeva.

"To me, the injustice here is so monumental," says Dusalijeva's attorney, Stan Epshtein, who is now appealing the decision. "They took a child away from a gay couple in Utah and there was public outrage. Here, we do this — even though grandparents all over the United States are raising children."

"The only reason this problem arose is because [L.G.'s father] died in the United States," says Dusalijeva, speaking in Russian via Skype from her home in Latvia. "If he had died in Latvia, the court would recognize what the will said, I would be guardian, and there would be no issues whatsoever. In the United States, nobody cares about the documents we submit; they just have their own opinions. Nobody cares about the welfare of the child. Nobody cares what the deceased person wanted.

"They just do what they want. No respect."

L.G.'s father was born in Riga, Latvia, in 1941, at a particularly tumultuous moment in the beleaguered country's history. The Soviets had occupied the republic months before; the

Germans invaded when the boy was just a few weeks old. L.G.'s grandparents had been wealthy, with substantial real-estate holdings, but the war quickly ushered them into the ranks of the dispossessed, their properties nationalized by the Soviets. Some family members were sent east, others fled west; L.G.'s father spent much of his childhood in a refugee camp in Germany.

In 1950 he emigrated to the United States, along with his brother and mother. They stayed with relatives in Colorado Springs for several months before moving to Denver. L.G.'s father went to East High School and [Colorado State University](#), then on to business school. As with so many immigrants, his sense of being an outsider seemed to fuel a drive to succeed. He married another Latvian émigré and worked at IBM and Xerox in various cities in the Northeast before returning to Denver, which he considered an ideal base for skiing and raising the couple's daughter, Mara.

His plans changed dramatically after the fall of the Soviet Union. In the early 1990s, he returned to Latvia in an effort to reclaim title to his mother's properties from a new regime that recognized the concept of private ownership. It was, by all accounts, a complex, arduous struggle against competing claims, further complicated by a fledgling legal system riddled with graft and inefficiency. But he was determined to see it through, spending more of his time in his native land than in Colorado. Eventually he divorced his first wife and married a woman he'd hired to help manage his properties.

Over the course of a decade, L.G.'s father reclaimed rights to more than two dozen properties in Latvia, including several apartment houses. He sold some of them, reinvested elsewhere. He bought a house in France, condos in Germany, Spain and Austria, a house and condo in Denver, investment properties in Durango and Phoenix. Watching over his holdings and checking out new prospects kept him on the move; when he stayed in Latvia, which was often, it was in a luxurious three-story home in the resort town of Jurmala, on the Baltic Sea.

L.G. was born in Ohio in 2009; her mother died of cancer nine months later. The girl's only remaining close relative was her father; his parents and his brother had died years earlier. For several months, her father relied on short-term hires to help care for L.G. Then he was introduced to Dusalijeva, who worked in an alterations shop and had raised four children. After several meetings and discussions about the nanny job, she moved into the house in Jurmala.

From that point on, Dusalijeva joined L.G. and her father in their travels. They went to France and Spain, Stockholm and Denver; L.G. also spent time with Dusalijeva's grandchildren in Germany and Latvia. By mid-2012, it was no secret among the father's friends that he and Dusalijeva were living as husband and wife, sharing the same bedroom in Jurmala. But Latvia doesn't recognize common-law marriage, and L.G.'s father continued to pay Dusalijeva 400 euros a month for her nanny duties.

A cousin of L.G.'s father, who lives in Denver, observed Dusalijeva's interactions with the girl on several occasions. He says there was no mistaking the affection on both sides: "It was a very close relationship. The little girl loved her. I didn't think of it as a business arrangement at all."

Unlike L.G. and her father, Dusalijeva didn't have dual citizenship. Her trips to the United States involved a temporary visitor visa. The situation left her in a position of some legal vulnerability;

she was, in the law's eyes, an employee. But in conversation with Dusalijeva and others, L.G.'s father had expressed his hope that she would raise the child if anything happened to him, the two of them living in the house in Jurmala. And in 2014, he gave her a ring.

"The ring was an engagement ring, and we were going to work out the details while we were in the United States," Dusalijeva says.

But a wedding date still hadn't been set when L.G.'s father died in his Denver condo, leaving behind so many properties and questions.

L.G.'s father gave different accounts to different people concerning where he intended to live and raise his daughter. He was a thoughtful, educated and well-organized man, but he was also capable of shifting course on impulse. His cosmopolitan lifestyle, straddling two continents, posed certain challenges for the people trying to sort out his estate and L.G.'s future.

Even the question of his primary residence didn't have an obvious answer. He paid taxes in America, maintained his Colorado driver's license and had many ties to the state; at the time of his death, he was close to completing the purchase of a second condo in the same complex in Denver where he was living in a rental unit. But he also conducted much of his business from Latvia and seemed to spend more time there than anywhere else.

And where, exactly, had he intended for L.G. to go to school? He told various people that he wanted her enrolled in Denver, either because he wanted her to be fluent in English or because he believed the education system was better, or both. Shortly after arriving in Denver in early 2015, he'd arranged for her to attend a preschool program and looked into elementary schools in the area. But he also withdrew her from that program and had purchased tickets for a May flight back to Latvia. In an e-mail to a friend, he observed, "I decided to visit the USA as of January 01, 2015, to continue my daughter's English education on a prolonged (several month basis)" — which didn't make the "visit" sound like a permanent move. (The Denver cousin says that the father had been moving more of his possessions from Denver to Latvia in recent years, not the other way around.) He'd looked at Latvian schools as well but had made no formal enrollment efforts, possibly because primary school there typically starts at age six or seven, and L.G. was only five.

The decedent's 2014 will did provide some guidance as to who was supposed to make those sort of decisions on the girl's behalf: Dusalijeva. But her appointment as L.G.'s guardian, which would likely have been automatic if she'd acted promptly, was muddled by her joining in Mara's request to designate co-guardians. Dusalijeva now says she was poorly advised by the attorney Mara hired, given the conflicting interests of the parties involved, and only agreed to the arrangement because she thought it would expedite the legal process.

"This is a strange land to me," she says. "I don't speak the language. Mara hired this attorney. Nobody listened to me. Nobody told me that I had thirty days to accept the appointment. If I had known that, I would definitely have acted upon it."

In theory, the questions of guardianship and control over the girl's inheritance were entirely separate issues. The will named a personal representative, a longtime friend of L.G.'s father, to

administer the estate. L.G.'s funds would be held in a trust until she turned 25, with allowances made for education, health and other expenses, as well as similar expenses incurred by Mara or her children. Whoever was guardian could seek reimbursement for specified expenses but would not actually have control of the money.

But under Latvian law, there's no division of authority between executor and guardian; the guardian is in charge of the minor's assets and files annual reports with the supervising court, known as the Orphans Court. As it became clear that Mara was opposing Dusalijeva's bid for guardianship, among the concerns raised by her attorneys was the possibility that the nanny would take L.G. back to Latvia, never to return, and dissipate the Latvian assets with little oversight by authorities there.

Dusalijeva says that there was no real possibility of such a thing, that the suggestion indicated the kind of cultural biases she was up against in Denver Probate Court. "Latvia was painted as some banana republic in this court," she says. "In Latvia, we have laws and institutions that administer the resources for orphans. It's very established. These institutions would control the assets of the minor. There are reporting requirements before any approval for selling property. It's foolish to suggest I would control it."

Quite apart from her desire to protect her half-sister, Mara wasn't exactly a disinterested party concerning the disposition of the properties in Latvia. Although she managed one of her father's American properties for him, the relationship between them had apparently become strained in recent years. His last will made no provisions for her, other than health and education expenses for her and her children. But under Latvian law, disinherited offspring can claim a "forced inheritance" — which, in Mara's case, amounted to 25 percent of the Latvian estate.

Mara did, in fact, file such a claim in Latvia. At the same time, she expressed no interest in gaining control of L.G.'s funds or challenging the will in Denver. Although she wanted a stake in the guardianship, she had determined that, with children of her own, she wasn't in a position to raise the girl. Instead, she proposed that a couple in Highlands Ranch be appointed L.G.'s guardians.

The couple had met L.G. for the first time on the day of her father's funeral. Through a connection at the local Latvian church, they'd been asked to babysit her while family members were busy with the ceremony. In subsequent weeks, they took her on several outings — sometimes with Dusalijeva, sometimes on their own. L.G. began calling them Mommy and Daddy.

In many respects, the couple seemed eminently qualified to raise L.G. They had a child of their own, close in age to L.G. They were young and active, fond of hiking and mountain biking and other outdoor activities (in contrast to Dusalijeva, who, it was suggested, seemed better suited for the role of grandmother). Their parenting style was to be highly involved but not strict (also in contrast to Dusalijeva, who struck them as more of a stern nanny than a soccer mom, and perhaps overprotective of L.G.). The mother was a native of Latvia and spoke the language. And they declared that they would make no demands on L.G.'s trust fund, except possibly to file for reimbursement of major expenses.

Epshtein protested that the whole idea was outrageous. Mara and the couple were seeking to separate L.G. from the only mother she'd ever known and put her in the hands of strangers, he contended. And why? Because Dusalijeva was, in their view, too old? Because she intended to make their home in Latvia?

“This is discrimination based on national origin,” he says. “This person is not just a foreigner — she has the gall of not wanting to become an immigrant and live here. She doesn't want to raise this child in the United States.”

But the couple's petition for guardianship had some powerful supporters, including the personal representative of the estate, who'd clashed with Dusalijeva over her failure to provide expense reports and other financial information. (Epshtein says his client didn't have access to a computer or a clear idea of what was required of her.) The guardian ad litem acknowledged “the deep and genuine bond” that existed between Dusalijeva and L.G., but he, too, recommended that the couple and Mara be appointed co-guardians of the girl. He also suggested, as a sort of Solomonic compromise, that funds be provided by the estate for Dusalijeva to visit L.G. several times a year to aid her transition to her new family.

After hearing evidence from both sides, Judge Leith decided to grant the petition by the couple and Mara. Dusalijeva would have a conflict of interest as guardian because of her ability to control the Latvian assets, Leith concluded. The judge was persuaded that L.G.'s father had wanted her to be raised in Denver, and that Dusalijeva's visa issues and conflicts with Mara didn't help her cause. Leith also believed that L.G. was resilient enough to adapt to a new family without great emotional trauma. Overriding the father's choice of guardian, she ruled that it was in the best interest of the child to be with the Highlands Ranch couple, who “enjoy a good reputation in the community and provide an environment which would allow [her] to thrive.”

Leith ordered that the couple take immediate custody of L.G. Dusalijeva could continue to visit, but the visits would have to be supervised in order to avoid any “untoward experience” — such as an attempt to spirit the child away.

“Not that I really believe that would happen,” Leith said, “but I am trying to cover all the bases. Emotions are running high. This has been a really difficult case for everybody.”

Through their attorneys, Mara and the couple declined requests for comment about the custody dispute, citing pending appeals. Shortly after being contacted by Westword, their attorneys filed a motion asking Judge Leith to issue a gag order in the case that would prevent any other parties from commenting on what occurred.

Judge Leith has not yet ruled on that request.

It was difficult to return home alone, Dusalijeva says, after so many trips with L.G. by her side. Pictures of the girl are on her phone, all over her apartment. It took weeks to arrange moving her belongings out of the big house by the sea in Jurmala; the locks had been changed, a guard posted on the property.

The judge in Colorado terminated her position as L.G.'s mother, and the personal representative of the estate fired her from her nanny job, cutting off her modest salary. But the Latvian government has taken no notice of her change of status and doesn't recognize her right to collect unemployment benefits. This is all hard, but not as painful as being told that she was too old to raise L.G., that the girl would be better off with young parents who would still be around when she has children of her own.

L.G.'s father was a decade older than her, Dusalijeva notes. "Nobody knows how long they're going to live," she says. "You can be young and die tomorrow. If it was Mara taking the child, I would not be so upset. But they took the child as if she was some pet and gave her to a strange family. Nobody thought about the welfare of the child, of being separated from me and going to a strange family."

Last month the [Riga Orphan's Court](#) sent a letter to Denver Probate Court, seeking to clarify the decisions made in L.G.'s case and the Denver court's authority for making those decisions. Epshtein has also filed a motion challenging the guardianship decision, claiming that Judge Leith lacked jurisdiction to rule in the case. A Ukrainian immigrant himself, born in Odessa, Epshtein believes that the argument for removing L.G. from Dusalijeva's care rested on badly flawed premises —not only the fear that the nanny would plunder the estate, but a presumption that America is the best place to raise a child.

"Because the United States is so much better than Latvia, we tear this child away from a mother figure," he says. "People need to understand that this 'America *über alles*' thing is not healthy. It's offensive."

Dusalijeva Skypes with L.G. every two weeks, for thirty or forty minutes at a time. It takes her a while to prepare for each video visit, she says, so she doesn't break down. L.G. calls her new female guardian Mommy. Her hair, which Dusalijeva used to braid elaborately, has been cut short for the first time in her life.

"She is active," Dusalijeva says. "She draws. She takes tae kwon do. I have to be honest; she seems to be adapting. But she's not smiling."

Appeals in the case could drag on for months or years. The longer the process continues, the more of a dilemma it poses for Dusalijeva. At what point does her effort to repair the disruption of her relationship with L.G. become disruptive itself? If the girl is adapting readily to her new home, wouldn't removing her once again cause even more trauma?

"That's an interesting, complicated question," she says. "I can tell you that her father didn't want this for his daughter. He definitely didn't want this. But if I knew she was going to be happy there, then I would be okay with her staying there."

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