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# What would it take to #FreeBritney from her conservatorship? A legal expert explains



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February 15, 2021·



Britney Spears in the *Framing Britney Spears* documentary. (Photo: FX)

The cries to #FreeBritney from her conservatorship are louder than ever, but how hard is it to terminate one — and does she want to?

In a memorable scene in *Framing Britney Spears*, the documentary which examines the singer's mistreatment in the media and the conservatorship controlling her life since her 2008 breakdown, attorney Vivian Lee Thoreen, who specializes in conservatorships and has since joined Britney's dad Jamie Spears's legal team, is asked how many conservatees she has worked with who have successfully terminated a conservatorship. Her answer? Zero.

It's an eye-opening moment in the film considering Britney is, according to her court-appointed lawyer Samuel D. Ingham III, a "high-functioning conservatee," having earned \$138 million between 2013 and 2017 for her Las Vegas residency. It made us wonder how exactly she goes about getting out of one, if she wanted to.

"It is her legal burden to come to court and petition, or ask, the judge to have it removed," California-based [celebrity divorce lawyer](#) Christopher C. Melcher of [top family law firm](#) Walzer Melcher tells Yahoo Entertainment. "She needs to show that the order is no longer necessary."

Basically, the 39-year-old would have to make the case that she's able to care for herself. She would have to exhibit consistent behavior showing she can successfully meet her day-to-day needs (food, housing and health) as well as be able to provide for herself financially. She'd also have to show that she has a support system in place in case she runs into issues while doing so. There would be an evaluation and it would be determined whether she could manage her affairs without being subject to undue influence.

This petition could be filed by her attorney "at any time," says Melcher, who does not represent Britney. "With so much public interest in it, it could move pretty quickly" — instead of the typical "glacial pace" of typical legal proceedings.

He adds, "But if she doesn't ask, she won't get."



## **"'High functioning' and 'conservatee' should not be in the same sentence"**

At least part of the reason Thoreen said she's never had a client get out of a [conservatorship](#), is because most conservatees are not like Britney.

"I think most of us, we don't have to be an expert to judge whether somebody is so gravely disabled that they're unable to take care of themselves," says [top family law attorney](#) Christopher C. Melcher of conservatorships, which are typically reserved for incapacitated individuals. "We can figure that out in one minute of talking to somebody. It really has to be that apparent."

The fact that the "Toxic" singer is able to work at such a high level — though she's currently on a work strike until Jamie is removed as co-conservator of her estate — draws questions about why she remains in one 13 years later.

"There are plenty of low-functioning adults not under a conservatorship. Those people may be sitting at home and not able to work," says Melcher who specializes in [high net worth divorce](#). "Here, we have a working adult — she had the Las Vegas residency, a grueling experience, I'm sure, and is 'high functioning' — so right there is a huge sign that a conservatorship is not needed."

In fact, Melcher says of that "high-functioning conservatee" label: "It is a contradiction in terms and that should be a huge alert to the court. 'High functioning' and 'conservatee' should not be in the same sentence."

And while many records in Britney's case are sealed, "We haven't seen publicly any outbursts or problems. We know of nothing of that magnitude since [2008]. Maybe they're happening privately but publicly they're not. The statements she's making on social media are fine. I'm sure are being reviewed, but there's nothing to show that she can't take care of herself."

### **Britney's two conservatorships**

Britney currently has a conservatorship over her estate, which handles business deals and her finances, and which we've heard a lot more about as she tries, so far unsuccessfully, to remove her dad from the co-conservator role he shares with financial company Bessemer Trust. She also has a conservatorship over her person, which controls where she can go, where she can live, who she can see and all of her health/medical needs.

Melcher says the conservatorship over her person is, in his mind, what is truly stifling. He calls it the "more extreme version" of the two — it's overseen by licensed conservator Jodi Montgomery — and it's really "only put in place for people who are unable to provide basic necessities for themselves or can be a danger to themselves."

He calls it "a rare thing to have a conservatorship over the person. These are people who are gravely disabled... It takes away her liberty interests. And what greater right do we have as humans than liberty? You'd think that would be the one to go first and argued against."

So that leads to the possibility that despite the cries to #FreeBritney, the campaign waged by her loyal fans which really has shone a spotlight on the conservatorship, isn't against the conservatorship in general — after all, last year her lawyer referred to it as a "voluntary" conservatorship — just her dad's role in it.

"That's the only thing that makes sense to me," Melcher says, "is that at least before she was OK with the conservatorship and she found benefit or protection in it... That would unify everything in my mind that she, back then or until recently, was OK having a conservator, but she wanted a say in who it was going to be."

There's also a possibility that there is a tie-in between her conservatorship and her child custody arrangement for teen sons — Sean Preston and Jayden James — with ex-husband Kevin Federline. It may act as assurance to family court. (Last week, Federline, who shares 70/30 custody with his ex, said through his attorney he "thinks Jodi Montgomery has done an admirable job" in her role as Britney's conservator. Of note: He's not a fan of Jamie's, having secured a restraining order preventing Jamie from seeing his sons after a 2019 incident.)

Consistent with what K-Fed said, as far as what we've seen play out, Britney seems content with Montgomery in the role of conservator of her person. In fact, in her plea to oust her dad, she asked the court to have Montgomery oversee both her person and estate conservatorships.

### **"Her preference should be given substantial weight"**

Just for clarity, it is both "typical" and "desirable" to have a family member in the role as conservator — as someone who would seem to have the person's best interests in mind.

"It not an easy job," says [international family law attorney](#) Christopher C. Melcher of being a conservator. "There could be 24/7 care for some folks, interventions" — and a lot of trust is required. "It depends on the family dynamic too. Sometimes it can harm the relationship when you put a family member in control of another family member's life. It's not normal."



And whether or not Jamie is doing a good job in the role, the fact that Britney has been asking for him to be removed — revealing through her attorney that they hadn't spoken since last summer — should be considered.

"I've been thinking a lot about it after seeing the documentary, in which he's painted almost as a villain," Melcher says of Jamie. "But if he's abusing his position, we probably would have heard about it by now. We would have heard reports of embezzling money or making horrible business decisions."

He continues, "Since it hasn't, all we're left with then is her preference, which should be given considerable weight. We have this 'high-functioning' person in a 'voluntary' conservatorship. Her preference should be given substantial weight. Whether she has good or bad reasons to have her dad removed, her dad should be removed because that's her stated preference. Further, the person she's proposed is a professional, it's not like she's asking for her boyfriend to be the conservator."

Though Sam Asghari, Britney's boyfriend since 2016, could become a co-conservator down the line if they stay together — or not amid recent events.

Back when Britney was engaged to Jason Trawick, her former agent, he was approved by the court to serve as a co-conservator of her person. He didn't oversee her finances, but could make decisions about the star's daily life and where they could travel without having to get permission for simple things which she has to now.

However, Melcher says he's concerned that Asghari's recent statements, defending Britney and bashing Jamie, may not make him "look like a good candidate."

### **Looking ahead**

One way for Britney to regain some control of her life, if she chose to, could be to petition to end one part of the conservatorship, for instance the more extreme one over her person.

"That could be a middle ground for the court," Melcher says. "To say they would terminate the conservator over her person — allowing her to decide where she's going to live and who's she's going to see — and at least for the time being, keep the conservator of her estate in place so big financial decisions are made by Bessemer Trust or other appointed person. That could give her the freedom to start making decisions over her basic necessities and then have the protection to make the large financial decisions."

Britney hasn't given any interviews on the topic, but recently wrote on Instagram amid speculation stemming from the documentary: "Each person has their story and their take on other people's stories !!!! We all have so many different bright

beautiful lives !!! Remember, no matter what we think we know about a person's life it is nothing compared to the actual person living behind the lens!!!!"

After last Thursday's status hearing in her conservatorship, Jamie released a statement through his attorney Thoreen, saying, "The Probate Court's rulings today show the court's confidence in our client Jamie Spears and Bessemer Trust to manage the conservatorship of Ms. Spears' estate together. My client looks forward to working with Bessemer to continue an investment strategy in the best interests of his daughter. The Probate Court is highly experienced in these matters and takes them very seriously. From the beginning, the court has closely monitored Britney's situation, including annual accountings and in-depth reviews and recommendations from a highly experienced and dedicated court investigator. Britney's Conservatorship of the Estate was co-managed by a private professional fiduciary and her father until early 2019. At that time, Britney requested in court papers that her father be the sole conservator of her estate. Her Conservatorship of the Person is not managed by her father but by a licensed personal care professional, and is similarly subject to the scrutiny of interviews, audits and detailed reports to the judge by the court investigator. My client Jamie Spears has diligently and professionally carried out his duties as one of Britney's conservators, and his love for his daughter and dedication to protecting her is clearly apparent to the court."