

RESTORING CERTAINTY TO AN UNCERTAIN LIFE:

Disabled Father Makes Sure Special-Needs Teen Son Will be Provided for

Life is full of hardship. Say that to Joseph “Joe” Perez, and he will tell you what that really means.

Joe, a 55-year-old father of three from a Chicago suburb, was recently widowed. His beloved wife, Anna, passed away in March 2010 at only 47 years of age after a brave battle against breast cancer.

Why her? God should’ve taken me instead, lamented Joe, still grief-stricken months later.

Losing his wife was just the latest incident of Joe’s long suffering. A few years earlier, he had become disabled as a result of a freak accident at work.

The chair I was sitting on gave way. When it slammed down, I flew backward and slammed to the floor. My shoulders were hanging out, recalled Joe.

The injury triggered a series of painful complications, including diabetic shoulders, rendering him unable to return to work. Joe went from a W2 employee to an SSDI recipient.

SSDI, or Social Security Disability Insurance, is a little-understood federal program that provides income to people who can no longer work as a result of disability.

Joe was referred by his employer to Jerrold Zivic, a Chicago attorney with 30 years in Social Security law, and founder of Zivic Solutions, Ltd.

According to Zivic, the Social Security Administration processes millions of disability applications each year with the numbers only rising.

With his Social Security Disability benefit, Joe was able to survive and care for Danny, his youngest child.

He’s the baby, said Joe with the pride and joy of a loving father. He loves to play with his toys. Danny’s raucous laughter could be heard in the background.

Now 14, Danny has outlived many doctors’ expectations. Born



Joseph Perez with son Danny age 14
Photo courtesy of The Perez Family

with microcephaly, a neuro-developmental disorder characterized by a small head and short life expectancy, Danny is mentally disabled and in need of round-the-clock care.

When his wife died, Joe’s biggest fear was not being able to provide for Danny.

If I die tomorrow, I want him to live in this house for the rest of his life, said Joe.

Planning for one’s death is hard enough; but trying to plan the uncertain life of a child who lacks the capacity to care for himself is nearly impossible.

To add to the complexity, when a special-needs child receives an inheritance, there can be a disastrous consequence: the loss of government benefits such as SSI and Medicaid.

SSI (or Supplementary Security Income) and Medicaid provide income and health care to people who are disabled and ineligible for Social Security Disability Insurance.

The Special Needs Trust

To protect Danny’s government benefits, Zivic advised Joe to see his

senior Special Needs Trust attorney Shari Shapiro to set up a Special Needs Trust for Danny.

A what trust? That was Joe’s initial response, a typical reaction to the mention of this legal instrument.

The purpose of a Special Needs Trust is simple: it protects your disabled loved ones government benefits while letting him share in your estate.

It is a bad idea to leave money directly to a disabled loved one who is receiving SSI or any means-based government benefit. Even a relatively small gift may cause a loss or reduction in government benefits, said Shapiro who has 32 years of experience in trusts, estate planning and probate law. Your good intention can cause your loved one to lose benefits.

Most people are unfamiliar with these laws. They also have the misconception that a Special Needs Trust is not for the middle class. The truth is that anyone on SSI can benefit from a Special Needs Trust. Sadly, most family members of disabled children fail to set up a Special Needs Trust, often causing the

loss of government benefits to their loved ones.

Tomorrow is promised to no one. A Special Needs Trust can at least take away some of life’s uncertainties for your disabled child, advised Zivic.

For Joe, he does not need any more bad surprises, especially when it comes to Danny.

In spite of his own pain and disability, Joe struggles everyday to care for his son. The mere task of getting Danny into the van takes half an hour! Lifting Danny has strained Joe’s back, aggravating his agony.

God gives me the strength. Every morning I wake up in pain. I just pray. I thank God for giving me strength, said Joe, without a shred of bitterness.

There’s a trust set up for Danny.

Joe knows that if anything happens to him, Danny will be provided for. ■

Jerrold S. Zivic has been practicing Social Security Disability law for over 30 years. He is the founder of Zivic Solutions, Ltd., a Chicago law firm dedicated to Social Security law practice. The firm compiles and analyzes Social Security disability statistics. Mr. Zivic teaches a continuing legal education course on Social Security Disability.

Shari A. Shapiro is a 1978 graduate of Loyola University of Chicago School of Law. From 1979 through 1986 she worked as an Assistant Attorney General for the State of Illinois in the Inheritance Tax Division. Ms. Shapiro has been in private practice since 1987 concentrating in the area of Trusts, Estate Planning, Probate and related litigation. She is also the senior staff attorney for special needs trusts at Zivic Solutions, Ltd. Ms. Shapiro teaches a continuing legal education course on Special Needs Trusts.