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DISTRICT IV

April 8, 2016

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You are hereby notified that the Court has entered the following opinion and order:

2014AP2105 In the matter of the guardianship of G. G.: Dionne S. v. Julia A. (L.C. # 2006JG129)

Before Kloppenburg, P.J., Sherman, and Blanchard, JJ.

This appeal arises out of cross-petitions for the appointment of a successor guardian for a minor child, Gregory G., following the death of the child's maternal grandmother, Regina Y., who had previously served as the child's guardian. The child's paternal grandmother, Dionne S., and paternal great-grandfather, Roy S., challenge the circuit court's decision to appoint as the successor guardian Julia A., a close friend of the maternal grandmother, who had assumed a caretaking role throughout much of the child's life. After reviewing the record, we conclude at

conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).[1] We affirm for the reasons discussed below.

Upon the death of a minor's guardian, and where neither parent is suitable and willing, the circuit court has discretion to appoint a "competent and suitable person" as a successor guardian. WIS. STAT. § 54.54(1); *cf.* WIS. STAT. § 54.15(5) (giving preference to parents). Because the exercise of discretion is an essential function of the circuit court, this court will look for reasons to sustain a discretionary determination, rather than independently review it as we would do for an alleged error of law. ***Burkes v. Hales***, 165 Wis. 2d 585, 590-91, 478 N.W.2d 37 (Ct. App. 1991) (citation omitted). Accordingly, we will not disturb a discretionary decision so long as the circuit court "'examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.'" ***Ladwig v. Ladwig***, 2010 WI App 78, ¶15, 325 Wis. 2d 497, 785 N.W.2d 664 (quoted source omitted).

The statutory legal standard for selecting a successor guardian is the best interests of the ward. WIS. STAT. § 54.15(1) and 54.54(1); *see also* ***Anna S. v. Diana M.***, 2004 WI App 45, ¶¶7-18, 270 Wis. 2d 411, 678 N.W.2d 285 (discussing potential conflict—not at issue here—between the best interests standard and a parent's constitutionally protected fundamental rights). The parties do not dispute that factors to consider in assessing the best interests of a minor child include the opinions of family members and the guardian ad litem, as well as any facts that would relate to the child's physical, emotional, or financial well-being.

[1] All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Here, the circuit court made factual findings that the paternal grandmother and the caregiving friend each had a loving connection with the child; that each was motivated to help him; and that both women were financially stable and lived in neighborhoods that were not substantially different in terms of safety. The court considered that most of the family members supported the paternal grandmother's petition for guardianship on the strength of blood ties, but also that the child's maternal uncle, who had lived with the child and maternal grandmother, and who was in the best position of the relatives to know the child's needs, supported the caregiving friend's petition. Additionally, the court noted that the guardian ad litem's recommendation in favor of the caregiving friend took into account the child's wishes.

The court determined that the primary distinction between the two petitioners was that the caregiving friend had assumed "mom-like" duties for the child on a day-to-day basis, including taking him to the doctor and dentist, arranging for insurance, taking him to and from school and extracurricular activities, taking him shopping for clothes, and enrolling him in grief counseling. The court shared the guardian ad litem's concern that, given all the trauma and loss the child had been through and the strength of his attachments to the community, it would be harmful to make the child change schools and lose his connection to his primary caregiver, school and neighborhood friends, and treatment professionals. The court concluded that it would be in the child's best interests to remain in Madison in "the world he knows," because changing anything else in his life "would really hurt him." Accordingly, the court appointed the caregiving friend as the successor guardian for the child.

The paternal grandmother and great-grandfather contend that the court erroneously exercised its discretion by giving too much weight to the maternal uncle's opinion, and too little weight to the importance of familial relationships. However, weighing various factors is the

essence of discretionary decisionmaking, and we will not substitute any view we might have for that of the circuit court. In sum, the court's discussion plainly shows that it rationally applied the proper standard of law to the facts adduced at the hearing to reach a reasonable result.

Therefore,

IT IS ORDERED that the guardianship order is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals