

**STATE OF WEST VIRGINIA  
SUPREME COURT OF APPEALS**

**FILED**

February 14, 2012

RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**J. B.,  
Petitioner Below, Petitioner**

v) **No. 11-0504** (Mingo County 11-CIG-1, 10-D-678 and 10-FIG-37)

**K. C. and L. C.,  
Counter-Petitioners Below, Respondents**

**MEMORANDUM DECISION**

This appeal arises from the Circuit Court of Mingo County, wherein the petitioner's petition for guardianship was denied. Rather, the circuit court granted the petition for guardianship filed by the counter-petitioners below, respondents herein. This appeal of the order denying her petition for guardianship was timely perfected by counsel, with Petitioner B.'s appendix accompanying the petition. Respondents C. filed a response in support of the circuit court's decision.

This Court has considered the parties' briefs and the appendix on appeal. The facts and legal arguments are adequately presented in the parties' written briefs and the appendix on appeal, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the appendix presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules.

The subject child in this case was adopted by her paternal aunt, D. W. on December 15, 2008, after both of her parents' parental rights were terminated in 2007. Since this adoption, D. W.'s health has deteriorated, leading the parties herein to file counter-petitions for guardianship regarding the child. J.B. is a second cousin to G.W. and a granddaughter of D.W. K.C. and L. C. are G.W.'s paternal grandparents; K.C. is D.W.'s brother. The circuit court held an evidentiary guardianship hearing, taking testimony from the parties herein, paternal aunt D.W., and a couple of D.W.'s children. Subsequently, the circuit court entered an order in February 2011, denying the petitioner's guardianship request and granting the guardianship petition of the respondents. Incorporated into this order were prior orders from the abuse and neglect proceedings involving the child's biological parents, along with the circuit court's additional findings of fact and conclusions of law for the instant matter. It is from this order upon which petitioner appeals, arguing that the circuit court's order was erroneous in that it is (1) arbitrary, capricious, an abuse of discretion not in conformity of the law; (2) unsupported by substantial evidence; and (3) unwarranted by the facts.

The Court reviews the circuit court's final order and ultimate disposition under an abuse of discretion standard, findings of fact are reviewed under a clearly erroneous standard, and conclusions of law are reviewed de novo. *State v. Murray*, 220 W.Va. 735, 739, 649 S.E.2d 509, 513 (2007) (citing Syl. Pt. 4, *Burgess v. Porterfield*, 196 W.Va. 178, 469 S.E.2d 114 (1996)).

The Court has carefully considered the merits of the petitioner's argument as set forth in her petition for appeal. Likewise, the Court has carefully considered the merits of the respondents' arguments as set forth in their response, the documents contained in the petitioner's submitted appendix, and the circuit court order. Finding no error in the denial of the petitioner's petition for guardianship and the granting of the respondents' petition for guardianship, the Court fully incorporates<sup>1</sup> and adopts the circuit court's detailed and well-reasoned forty-seven-page "Final Order Granting Petitioner [K.C.'s] Petition for Guardianship of [G.W.]," entered February 17, 2011, and attaches the same hereto.

For the foregoing reasons, we affirm.

Affirmed.

**ISSUED: February 14, 2012**

**CONCURRED IN BY:**

Chief Justice Menis E. Ketchum  
Justice Robin Jean Davis  
Justice Brent D. Benjamin  
Justice Margaret L. Workman  
Justice Thomas E. McHugh

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<sup>1</sup> The Court has redacted certain references within the circuit court's order which would reveal the identities of some of the victims in this case in line with its practice in regard to sensitive matters.