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SUPREME COURT NO. 90393-0

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re Dependency of A.W., M.W, a Minors

STATE OF WASHINGTON, DSHS,

Respondent,

v.

T.P.,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR BENTON COUNTY

The Honorable Joseph R. Schneider, Judge

SUPPLEMENTAL BRIEF OF APPELLANT

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ORIGINAL

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A. ISSUE ADDRESSED IN SUPPLEMENTAL BRIEF

Whether the preponderance of the evidence standard prescribed by the new guardianship statute, RCW 13.36.040(2), violates procedural due process?

B. FACTS RELEVANT TO ISSUE ADDRESSED

Appellant T.P. is appealing from the orders granting the petitions for guardianship of her two sons, A.W. and M.W. CP 115-131. At the time of the guardianship trial, A.W. and M.W. were approximately 10 and 12 years old, respectively. CP 1, 3.

No one doubted T.P.'s love for her children. CP 88; RP 184, 275, 368, 382, 386, 392. The dependency social worker described T.P.'s affection for A.W. and M.W. as "a very fierce love for them." RP 275. The social worker conceded that at times, T.P. "can be appropriate with them, that she can, you know, basically parent them[.]" RP 276.

A.W. and M.W. love their mother in return. RP 291, 387. At trial, A.W. expressed his desire to reunify with his mother. RP 291. In the past, M.W. had also expressed his desire to reunify. RP 291. T.P. regularly visited with her children twice a week for a total of six hours each week. RP 276, 296, 302.

At the time of the guardianship trial, T.P. was in the process of turning her life around. Brief of Appellant (BOA) at 15-17. She was in

compliance with drug treatment (RP 36, 167, 169), was in line for admission to drug court (RP 15-16, 297), and making strides in mental health treatment, including medication management, which previously had been unavailable to T.P. RP 136-37, 332. Her counselor testified she had never before seen this level of insight and compliance in T.P., describing her as “on the right track now.” RP 369.

T.P. opposed the guardianship, because she believes A.W. and M.W. need to be raised by their family. RP 26, 48. T.P. testified the bond between her and A.W. and M.M. is “tight.” RP 26. She explained there is a great love between them; and that the boys mean the world to her. RP 26.

T.P. welcomed the opportunity to resume parenting of A.W. and M.W. RP 46, 48-49. However, she needed an additional three months to continue her recovery, to learn about her mental health issues and adjust to her medications. RP 46, 334, 355. T.P. testified the wait would be short and within the children’s best interest. RP 49-50.

In support of granting the guardianship petitions, the court entered a finding that guardianship – as opposed to continuing reunification efforts with T.P. – was in the children’s best interests. CP 99. The court also found there was little likelihood that conditions would be remedied so that A.W. and M.W. could be returned to T.P. within the near future. CP 101.

In making these findings, the court expressly applied the preponderance of the evidence standard, as required under the new guardianship statute. CP 100.

On appeal to Division Three of the Court of Appeals, T.P. argued that the establishment of the guardianships based on the preponderance of the evidence violated T.P.'s right to due process. BOA at 24-33; Reply Brief (RB) at 1-12. In her briefing, T.P. acknowledged the appellate court previously upheld the preponderance standard as constitutionally adequate under the former dependency guardianship statutes, RCW 13.34.231-.233. BOA, at 19 (citing In re Dependency of F.S., 81 Wn. App. 264, 913 P.2d 844, review denied, 130 Wn.2d 1002(1996)). However, T.P. argued the new statute serves to more permanently deprive parents of their rights to the care and custody of their children, such that the preponderance standard no longer adequately protects those rights. BOA, at 19-33; RB, at 1-12.

She also argued the state failed to prove – under any standard – that guardianship as opposed to continued reunification efforts was in the children's best interests, and that there was little likelihood conditions would be remedied so that the children could be returned to T.P. within the near future. BOA, at 34.

Following oral argument, the Court of Appeals Commissioner entered a Ruling referring the matter to a panel of judges, as T.P.'s due process challenge to the *new* guardianship statute (RCW 13.36.040) was one of first impression. Appendix A (Commissioner's Ruling dated April 11, 2014). The panel thereafter entered an Order certifying the matter to this Court for such disposition as it deems fit. Appendix B (Order dated June 10, 2014). On June 25, this Court entered a Ruling accepting certification. Appendix C (Ruling dated June 25, 2014).

C. ARGUMENT

THE PREPONDERANCE OF THE EVIDENCE STANDARD VIOLATES DUE PROCESS.

The new guardianship statute is materially different than the former in three respects that will be discussed herein, such that the balance of interests and risk of error has changed. Fundamental fairness is no longer satisfied by the preponderance of the evidence standard. Whether a statute passes constitutional muster is a question of law this Court reviews *de novo*. City of Redmond v. Moore, 151 Wn.2d 664, 668, 91 P.3d 875 (2004).

Preservation of the family unit is a fundamental constitutional right protected by the federal and Washington constitutions. U.S. Const. amends. V, XIV; Wash. Const. art. I, § 3; Quilloin v. Walcott, 434 U.S.

246, 98 S. Ct. 549, 54 L.Ed.2d 511 (1978); In re Custody of Smith, 137 Wn.2d 1, 15, 969 P.2d 21 (1998). Parents have a fundamental liberty interest in the care, custody, and management of their children. Santosky v. Kramer, 455 U. S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982).

As a fundamental right, a parent's right to custody of her children may not be interfered with without the complete protection of due process safeguards. Halsted v. Sallee, 31 Wn. App. 193, 639 P.2d 877 (1982). Thus, parental fitness proceedings are accorded strict due process. Stanley v. Illinois, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); Santosky v. Kramer, 455 U.S. at 754; In re Darrow, 32 Wn. App. 803, 806, 649 P.2d 858 (1982).

The fundamental fairness test is used to determine the nature of process required in proceedings affecting a parent/child relationship. Under this test, the court balances three factors: (1) the private interests affected by the proceeding; (2) the risk of error created by the state's chosen procedure; and (3) the countervailing government interest supporting use of the challenged procedure. Santosky v. Kramer, 455 U.S. at 754; In re Key, 119 Wn.2d 600, 610-611, 836 P.2d 200 (1992), cert. denied, 507 U.S. 927 (1993); see also Matthews v. Eldridge, 424 U.S. 319, 333, 96 S. Ct. 893, 47 L.Ed.2d 18 (1976).

In Santosky, the Court held that orders which completely and irrevocably terminate parental rights in a child must be supported by clear, cogent and convincing evidence, rather than the preponderance of the evidence standard provided for in the New York termination statute. In reaching this decision, the Court found the private interest of parent and child in their relationship “commanding” because termination irreversibly severs the parent’s right to communicate with, visit and pursue custody of the child. Santosky, 455 U.S. at 758-61.

The Court also found a “significant prospect” of error due to the adversarial nature of the termination proceeding, the vast difference in litigation resources available to the state and the parent, and the imprecise statutory standards for termination that leave termination decisions open to a judge’s subjective values and cultural or class bias. Santosky, 455 U.S. at 761-64.

As for the countervailing state interests, the Court found that the state’s *parens patriae* interest in a child’s welfare, which encompasses the aim of preserving the family, was well served by a standard stricter than a preponderance of the evidence. The Court further anticipated that no significant impact on the speed, form, or cost of fact-finding proceedings would result from application of a higher standard. Santosky, 455 U.S. at 766-68.

Applying the test set forth in Santosky, Division One held that due process is not offended in dependency proceedings by application of the preponderance of the evidence standard. In re Dependency of Chubb, 46 Wn. App. 530, 536-37, 731 P.2d 537 (1987). The primary reason the court held the constitution allows a lesser standard in dependency actions is that the potential impact on the parent and child's interest in their relationship is much less intrusive than in termination proceedings. Although an order of dependency may disrupt that relationship, it results in neither an irreversible decision nor complete severance of the parent's contact with the child. Chubb, 46 Wn. App. at 536.

In addition, the procedural safeguards inherent in dependency proceedings raise fewer concerns for risk of error. An order of dependency is reversible, is subject to review every six months, and cannot automatically ripen into an order of termination. Chubb, 46 Wn. App. at 536.

The court also found the governmental interest more weighty in dependency proceedings than in termination proceedings. The court noted that a lower standard of proof provides the necessary flexibility to the state in its attempts both to protect the child and to preserve the family within the framework of the dispositional remedies and social services available

once the dependency has been established. Chubb, 46 Wn. App. at 536-37.

In light of these authorities, Division One in In re Dependency of F.S., 81 Wn. App. 264, considered whether the preponderance of the evidence standard satisfied due process in the context of dependency *guardianships*. The guardianship statute in effect at the time authorized the court to order a guardianship upon a showing, by a preponderance of the evidence, of the following elements:

(1) The child has been found to be a dependent child under RCW 13.34.030(2);

(2) A dispositional order has been entered pursuant to RCW 13.34.130;

(3) The child has been removed ... from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2);

(4) The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

(5) There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(6) A guardianship rather than termination of the parent-child relationship or continuation of the child's current dependent status would be in the best interest of the family.

Former RCW 13.34.231 (1992).

Division One concluded the preponderance of the evidence standard provided adequate due process, primarily because a dependency guardianship provided for an “inherently temporary situation.” In re F.S., 81 Wn. App. at 269. Of significance to the court’s finding in this respect was the fact that *the child remained dependent and that the parents could seek to terminate the guardianship and have the children returned:*

Contrary to appellants’ assertion, the impact of guardianship on the parent/child relationship is not tantamount to termination. Guardianship is not permanent, nor is it irreversible, and it does not sever all rights of the parent in the child. **When a guardianship is established under RCW 13.34.231, the child remains dependent.** RCW 13.34.232(4); Washington State Bar Ass’n, *Family Law Deskbook* § 50.9, at 50-23 (1989). The court appoints a person or agency as guardian and (1) defines the guardian’s rights and responsibilities concerning the care, custody, and control of the child, (2) sets an “appropriate frequency of visitation” between parent and child, and (3) specifies the nature of involvement, if any, of the supervising state agency. RCW 13.34.232(1). A guardianship remains in effect only until the sooner of the child reaching the age of eighteen or termination of the guardianship by the court. RCW 13.34.232(5) (as amended in 1994). **The parent may seek at any time to modify the guardianship or to terminate it and request the return of the child.** RCW 13.34.233(1) (as amended in 1994); In re A.V.D., 62 Wn. App. 562, 570, 815 P.2d 277 (1991) (quoting Washington State Bar Ass’n, *Family Law Deskbook* § 50.9, at 50-23 (1989)). Guardianship is therefore an “inherently temporary situation.” In re A.V.D., at 570, 815 P.2d 277. Termination, in contrast, severs “all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control,

visitation, or support existing between the child and parent[.]” RCW 13.34.200(2).

In re F.S., 81 Wn. App. at 269 (emphasis in bold added).

For similar reasons, the court found the risk of error not as great as in termination proceedings:

The risk of error is similarly not as great in guardianship proceedings as in termination proceedings. **Guardianship is reviewable at any time upon a petition, filed by the parent or any other party to modify or terminate.** As with dependency, guardianship cannot automatically ripen into termination, nor does it inevitably lead to that result.

In re F.S., 81 Wn. App. at 270 (emphasis in bold added).

As for the governmental interest at stake, the court likened it to that in dependencies, requiring a similar level of flexibility to provide for “secure placement of the child while authorizing both visitation between parent and child **and continuing involvement by state agencies.**” In re F.S., 81 Wn. App. at 270 (emphasis added). The court therefore concluded that considering the decreased invasion of private interests at stake, the lesser consequence of error and the heightened governmental interest, the lower standard of proof adequately provided due process under the former guardianship scheme. Id.

In 2010, however, the Washington legislature created a new chapter under Title 13 RCW entitled “Guardianship.” Laws of 2010,

chapter 272; Chapter 13.36 RCW. Under this chapter, any party to a dependency proceeding may petition for establishment of a guardianship.

RCW 13.36.030(1). That petition shall be granted if:

(iv) The court finds by a preponderance of the evidence that it is in the child's best interests to establish a guardianship, rather than to terminate the parent-child relationship and proceed with adoption, or to continue efforts to return custody of the child to the parent; and

(b) All parties agree to entry of the guardianship order and the proposed guardian is qualified, appropriate, and capable of performing the duties of guardian under RCW 13.36.050; or

(i) The child has been found to be a dependent child under RCW 13.34.030;

(ii) A dispositional order has been entered pursuant to RCW 13.34.130;

(iii) At the time of the hearing on the guardianship petition, the child has or will have been removed from the custody of the parent for at least six consecutive months following a finding of dependency under RCW 13.34.030;

(iv) The services ordered under RCW 13.34.130 and 13.34.136 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

(v) There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(vi) The proposed guardian has signed a statement acknowledging the guardian's rights and responsibilities toward the child and affirming the guardian's

understanding and acceptance that the guardianship is a commitment to provide care for the child until the child reaches age eighteen.

RCW 13.36.040(2).¹

The primary intent behind this statute is to create a separate guardianship chapter to establish permanency for children in foster care through the appointment of a guardian and dismissal of the dependency. RCW 13.36.010. To realize this intent, the new guardianship scheme is materially different than the former in at least three respects.

First, the circumstances under which a parent can terminate a guardianship have been drastically narrowed under the new statute. As

¹ These are very similar to the allegations the Department must prove to terminate parental rights:

- (a) That the child has been found to be a dependent child;
- (b) That the court has entered a dispositional order pursuant to RCW 13.34.130;
- (c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;
- (d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;
- (e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. . . . and
- (f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

RCW 13.34.180(1). If these six factors are proved, the Department must also prove termination of the parent-child relationship is in the child's best interests. RCW 13.34.190(2).

relied upon by Division One in F.S., the former dependency guardianship scheme allowed the parent to seek to modify or terminate the guardianship based solely on a change of circumstances:

(2) The guardianship may be modified or terminated upon the motion of any party, the department, or the supervising agency if the court finds by a preponderance of the evidence that there has been a substantial change of circumstances subsequent to the establishment of the guardianship and that it is in the child's best interest to modify or terminate the guardianship. The court shall hold a hearing on the motion before modifying or terminating a guardianship.

RCW 13.34.233(2) (2009).

This is no longer the case, however. Under RCW 13.36.070:

(1) Any party to a guardianship proceeding may request termination of the guardianship by filing a petition and supporting affidavit alleging **a substantial change has occurred in the circumstances of the child or the guardian** and that the termination is necessary to serve the best interests of the child. The petition and affidavit must be served on the department or supervising agency and all parties to the guardianship.

(2) Except as provided in subsection (3) of this section, **the court shall not terminate a guardianship** unless it finds, upon the basis of facts that have arisen since the guardianship was established or that were unknown to the court at the time the guardianship was established, that a substantial change has occurred in the circumstances of the child or the guardian and that termination of the guardianship is necessary to serve the best interests of the child. The effect of a guardian's duties while serving in the military potentially impacting guardianship functions shall not, by itself, be a substantial change of circumstances justifying termination of a guardianship.

(3) The court may terminate a guardianship **on the agreement of the guardian, the child, if the child is age twelve years or older, and a parent seeking to regain custody of the child** if the court finds by a preponderance of the evidence and on the basis of facts that have arisen since the guardianship was established that:

(a) The parent has successfully corrected the parenting deficiencies identified by the court in the dependency action, and the circumstances of the parent have changed to such a degree that returning the child to the custody of the parent no longer creates a risk of harm to the child's health, welfare, and safety;

(b) The child, if age twelve years or older, agrees to termination of the guardianship and the return of custody to the parent; and

(c) Termination of the guardianship and return of custody of the child to the parent is in the child's best interests.

RCW 13.36.070 (emphasis added in bold).

Thus, under the new statute, there is a presumption favoring the continuation of the guardianship (subsection 2), termination generally requires a change in circumstances of the child or guardian (subsection 1); and where the change in circumstances involves the parent, the guardian and child, if age 12, must agree to termination of the guardianship (subsection 3). There was no such agreement required under the former dependency guardianship statute. This amounts to a significant departure from the former statute and renders the guardianship more irrevocable. As

a result, the guardianship statute no longer provides for an “inherently temporary situation.” For this reason, the private interest affected – the parent/child relationship – is more weighty under the new statute.

The second major change under the new guardianship statute is that once the guardianship is established, the dependency is dismissed. RCW 13.36.010; see also CP 107, 112. The third is that there is no longer any continuing agency involvement. RCW 13.34.050(5).² As a result, the state’s interest and need for flexibility is lessened and no longer supports the lower burden of proof.

In short, the changes have affected the weighing of the competing interests at stake. At the same time, however, the changes have increased the risk of error, because guardianships are no longer an inherently temporary situation, and they are potentially more adversarial in nature – in that the parent must obtain the guardian’s consent to resume custody – and there is no longer any court oversight. For all these reasons, this Court should find fundamental fairness is no longer satisfied by the preponderance of the evidence standard.

² RCW 13.36.050(5) provides: “Once the dependency has been dismissed pursuant to RCW 13.36.070, the court shall not order the department or other supervising agency to supervise or provide case management services to the guardian or the child as part of the guardianship order.”

In its briefing below, the state argued there are still sufficient distinctions between guardianship and termination such that due process is not offended by application of the preponderance of the evidence standard in guardianship proceedings. Brief of Respondent (BOR), at 18-29. In that vein, a guardianship holds out the possibility of a continued legal right of contact, whereas termination does not. But while a guardianship *may* provide for some limited contact,³ it removes the care and custody of the child from the parent to the guardian without exception. RCW 13.36.050(2), former RCW 13.34.232 (2).

Under the new guardianship statute, the legislature has declared that once the order is entered: “The guardian shall maintain physical and legal custody of the child and have the following rights and duties under the guardianship” RCW 13.36.050(2). Under the old statute, the court appeared to have some discretion regarding physical and legal custody of the child: “*Unless the court specifies otherwise* in the guardianship order, the dependency guardian shall maintain the physical custody of the child and have the following rights and duties” RCW 13.34.232(2) (emphasis added). Accordingly, the new statute is more restrictive of

³ An order of guardianship does not necessarily mean the parent will have continued contact with his or her child. RCW 13.36.050(1)(d) (court shall “Specify an appropriate frequency and type of contact between the parent or parents and the child, if applicable, and between the child and his or her siblings, if applicable[.]”). (Emphasis added).

parental rights, as it forecloses even a remote possibility of shared care or custody.

The state also argued the provisions retained in the new guardianship statute, whereby a parent may move to terminate and/or modify the guardianship after its establishment, justify the lesser standard of proof. BOR, at 23. Granted, these were factors relied upon by F.S. in finding guardianship inherently temporary. F.S., 81 Wn. App. at 269.

Under the new statute, however, the parent may seek to terminate the guardianship based solely on a substantial change in circumstances *of the child or guardian*. As indicated, this is a significant departure from the previous statute, which allowed the parent to petition to terminate based on a substantial change in circumstances of any kind. Former RCW 13.34.233(2). Indeed, the former statute contemplated that the change could relate to the parent's change of circumstances, *i.e.* remedying the parental deficiencies that led to the state's involvement. In re Dependency of A.V.D., 62 Wn. App. 562, 815 P.2d 277 (1991) ("If a guardianship were imposed, V's father could come back many years later and seek to have the guardianship terminated on the ground that he was finally able to care for her.")

Like the court in F.S., other courts have relied on this distinction between guardianships and terminations to justify the lower evidentiary

standard in guardianship proceedings. See e.g. In re A.G., 900 A.2d 677, 681 (D.C. 2006). As was the case in F.S., however, the guardianship statute at issue in A.G. did not restrict the basis under which a parent could move to terminate the guardianship. A.G., 900 A.2d at 679. Rather, its statute provided:

The court may enter, modify, or terminate a guardianship order after considering all of the evidence presented, including the Mayor's report and recommendation, and after making a determination based upon a preponderance of the evidence that creation, modification, or termination of the guardianship order is in the child's best interests.

D.C. Code § 16-2388(f).

Regardless, California has disagreed that the possibility a parent may later move to terminate a guardianship justifies a lesser standard of proof than in termination proceedings. Guardianship of Stephen G., 40 Cal.App.4th 1418, 1425, 47 Cal.Rptr.2d 409 (1995). Relying on Santosky, the court there held due process required a showing of proof by clear, cogent and convicting evidence to establish a guardianship. Stephen G., 40 Cal. App.4th at 1425. The court did not agree the consequence of error was less dire than in a termination proceeding. While guardianship does not extinguish the parent's fundamental liberty interest in the custody, care and management of his or her child, it completely suspends it for an indefinite period of time. Stephen G., at 1426.

And although the parent retained the right to petition to terminate the guardianship, the court acknowledged the parent's success was unlikely:

Moreover, once the court has concluded that the child's continuous residence with nonparents would make it detrimental to return custody to a parent, it is difficult to perceive how the parent could ever prove the guardianship was "no longer necessary."

Stephen G., at 1426. Thus, the court recognized that: "As a practical matter, then, many guardianship orders will forever deprive the parent of a parental role with respect to the affected child." Stephen G., at 1426.⁴

This Court should find the California decision persuasive authority supporting the requirement of clear, cogent and convincing evidence to support the imposition of a guardianship. Because the guardianships here were based on facts found by a mere preponderance of the evidence, they were entered in violation of T.P.'s constitutional right to due process and should be reversed.

⁴ In 2002, the California legislature amended the guardianship statute to specify clear and convincing evidence of detriment was required to award custody to a nonparent over parental objection. H.S. v. N.S., 173 Cal.App.4th 1131, 93 Cal.Rptr.3d 470 (2009) (citing Historical and Statutory notes, 29E West's Ann. Fam.Code (2004 ed.) foll. § 3041, p. 141).

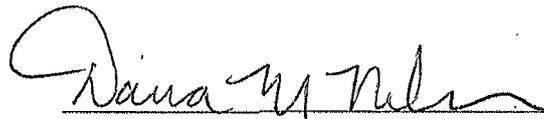
D. CONCLUSION

For the reasons stated above and in the opening and reply briefs, this Court should hold the preponderance of the evidence standard no longer adequately safeguards a parent's liberty interest to the care and custody of his or her child, in light of the increased permanence and irrevocability of guardianships under the new guardianship statute.

Dated this 7th day of September, 2014.

Respectfully submitted,

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APPENDIX A

T. Price

The Court of Appeals
of the
State of Washington
Division III

FILED

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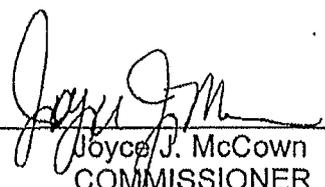
COURT OF APPEALS
DIVISION III

In re the Welfare of A.W. and M.W.,)	COMMISSIONER'S RULING
)	NO. 31514-2-III
Minors,)	CONSOLIDATED WITH
)	NO. 31516-9-III

Having considered the parties briefs, the record and file, and since the mother asserts that an issue¹ she raises on appeal is one of first impression,

IT IS ORDERED, at the direction of the Chief Judge, this case is referred pursuant to RAP 17.2 to a panel of judges for determination.

April 11, 2014.



 Joyce J. McCown
 COMMISSIONER

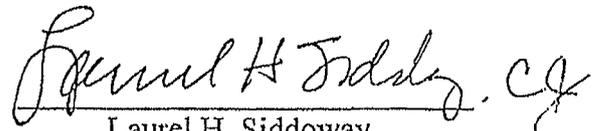
¹ The issue is whether the mother's due process rights were violated when the trial court used a preponderance of the evidence burden of proof to establish the guardianship as opposed to the clear, cogent, and convincing evidence burden of proof used in parental termination cases. In effect, she is challenging the constitutionality of RCW 13.36.040(2)(a).

APPENDIX B

No. 31514-2-III

to the Supreme Court.

June 10 , 2014


Laurel H. Siddoway
Chief Judge

APPENDIX C

Teresa Price

THE SUPREME COURT
STATE OF WASHINGTON

RONALD R. CARPENTER
SUPREME COURT CLERK

SUSAN L. CARLSON
DEPUTY CLERK / CHIEF STAFF ATTORNEY



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OLYMPIA, WA 98504-0929

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e-mail: supreme@courts.wa.gov
www.courts.wa.gov

June 25, 2014

LETTER SENT BY E-MAIL ONLY

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Eric Broman
David Bruce Koch
Dana M. Nelson
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Seattle, WA 98122-2842

Hon. Renee Townsley, Clerk
Court of Appeals, Division III
500 N. Cedar Street
Spokane, WA 99201

Caitlin O'Keefe Fleming
WA State Attorney General's Office
8127 W. Klamath Court, Bldg. 6
Kennewick, WA 99336-5099

Re: Supreme Court No. 90393-0 - In re the Welfare of A. W. and M. W.
Court of Appeals No. 31514-2-III

Clerk and Counsel:

Enclosed is a copy of the RULING ACCEPTING CERTIFICATION, signed by the Supreme Court Commissioner on this date in the above entitled cause.

It is noted that the Court of Appeals changed the title of the case to use initials for the minor children, but there does not appear to have been an order entered as required by RAP 3.4. Therefore, the following ruling is entered:

Pursuant to RAP 3.4, the title of this case is changed to use the minor children's initials to protect the children's privacy interests. Any person aggrieved by this ruling may serve and file a motion to modify this ruling by not later than 30 days after the date of this ruling. See RAP 17.7.

Sincerely,

Susan L. Carlson
Supreme Court Deputy Clerk

SLC:wg

Enclosure as stated



Filed
Washington State Supreme Court

JUN 25 2014

Ronald R. Carpenter
Clerk

g
bkh

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Welfare of:

A. W. and M. W.

SUPREME COURT
NO. 90393-0

COURT OF APPEALS
NO. 31514-2-III

RULING ACCEPTING
CERTIFICATION

By order dated June 10, 2014, this matter was certified to this court by Division Three of the Court of Appeals pursuant to RCW 2.06.030. Having reviewed the Court of Appeals file, I agree that the case warrants direct review under the cited statute. Certification is therefore accepted. Court of Appeals Cause No. 31514-2-III, in its entirety, is hereby transferred to this court for determination on the merits.


COMMISSIONER

June 25, 2014

693/3

OFFICE RECEPTIONIST, CLERK

To: Patrick Mayovsky
Cc: CarrieH@atg.wa.gov; shsappealnotification@atg.wa.gov
Subject: RE: In re Dependency of A.W. & M.W., No. 90393-0

Received 9/2/14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Patrick Mayovsky [mailto:MayovskyP@nwattorney.net]
Sent: Tuesday, September 02, 2014 3:22 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: CarrieH@atg.wa.gov; shsappealnotification@atg.wa.gov
Subject: In re Dependency of A.W. & M.W., No. 90393-0

Attached for filing today is a supplemental brief of appellant for the case referenced below.

In re Dependency of A.W. & M.W.

No. 90393-0

Motion to Extend Time to File Petition for Review

Filed By:
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