

# SUPREME COURT OF THE STATE OF DELAWARE

## Cohen v. Department of Services for Children, Youth and Their Families/Division of Family Services

Cohen · No. No. 618, 2018 · Decided September 23, 2019

### SUMMARY

The Delaware Supreme Court affirmed the Family Court’s denial of Tanya Cohen’s petitions for guardianship of five grandchildren. The Court held that the Family Court properly applied the guardianship and best-interests standards and that its factual findings were supported by the record. The Court also rejected Cohen’s claim that an alleged friendship between the Family Court judge and a witness created a conflict of interest.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Delaware                                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Karen L. Valihura; Leo E. Strine, Chief Justice; Karen L. Valihura, Justice; James T. Vaughn, Jr., Justice                                                                                                                                                                                                                                        |
| JURISDICTION          | Delaware                                                                                                                                                                                                                                                                                                                                          |
| DECIDED               | September 23, 2019                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 618, 2018                                                                                                                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Tanya Cohen appealed the Family Court's December 6, 2018 order denying her petitions for guardianship of five grandchildren.                                                                                                                                                                                                                      |
| STANDARD OF REVIEW    | The Supreme Court reviews both the law and the facts in a Family Court guardianship decision. If the Family Court correctly applied the law, the Supreme Court reviews for abuse of discretion, will not disturb factual findings supported by the record, and will not substitute its judgment for the trial judge's credibility determinations. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                                                                         |
| PARTIES               | Tanya Cohen v. Department of Services for Children, Youth and Their Families/Division of Family Services, Chloe M. Franks, Connor Abbott, Mark Miller, Kaden Moore                                                                                                                                                                                |

### TOPICS

guardianships

guardianship procedure

appellate procedure

standard of review

family law procedure

## PRACTICE AREAS

guardianship

family law

appellate procedure

## QUESTIONS PRESENTED

1. Whether the Family Court properly denied Cohen's petitions for guardianship after applying the statutory dependency and best-interests standards.
2. Whether the Family Court judge had a conflict of interest based on an alleged friendship with a witness in the mother's termination-of-parental-rights proceeding.

## HOLDINGS

1. The Family Court properly applied 13 Del. C. § 2330 and the best-interests factors in 13 Del. C. § 722, and its decision denying Cohen's guardianship petitions was not an abuse of discretion.
2. The alleged friendship did not establish a disqualifying conflict of interest or otherwise warrant reversal because the allegation was unsupported by the record and the Family Court did not rely on the witness's challenged testimony in denying the guardianship petitions.

## KEY QUOTATIONS

*"It is clear that the trial judge considered the evidence under the appropriate legal standards and applied a logical deductive process in concluding that denying the Maternal Grandmother's guardianship petitions was in the best interests of the children."* (6)

## FACTUAL BACKGROUND

Cohen, the maternal grandmother, petitioned for guardianship of five grandchildren after the children entered DFS custody. At the hearing, the evidence showed that an Interstate Compact on the Placement of Children approval for placement with Cohen in Pennsylvania remained outstanding, Cohen had untreated histories of domestic and sexual abuse, and children previously in her care had alleged physical abuse. The Family Court found that the best-interest factors and the children's history in Cohen's care weighed against guardianship, and the Supreme Court found no abuse of discretion or unsupported factual findings.

## PROCEDURAL HISTORY

Cohen filed guardianship petitions after the children entered the custody of the Department of Services for Children, Youth and Their Families/Division of Family Services. After a November 9, 2018 hearing, the Family Court found that the statutory dependency requirement was satisfied but concluded that guardianship was not in the children's best interests and denied the petitions. The Delaware Supreme Court affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Franks v. DSCYF, 2019 WL 4512028 (Del. Sep. 19, 2019)
- Ogden v. Collins, 2010 WL 4816059, \*5 (Del. Nov. 29, 2010)

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