

SUPREME COURT OF WYOMING

Boykin v. Parkhurst ex rel. Boykin

243 P.3d 961 (Wyo. 2010) · No. S-09-0251; S-09-0252 · Decided December 1, 2010

SUMMARY

The Wyoming Supreme Court affirmed summary judgment against a petition seeking appointment of a guardian and conservator for Nina H. Parkhurst, who had executed durable powers of attorney naming her son Randall Boykin as attorney-in-fact and health care agent. The court held that appointing a guardian ad litem to investigate alleged necessity did not decide the necessity issue or invoke the law-of-the-case doctrine. It also dismissed the guardian ad litem’s separate appeal for lack of standing, concluding that the record did not establish a present necessity for a guardian or conservator.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Justice; Burke, Justice; Golden, Justice; Kite, Justice; Voigt, Justice
JURISDICTION	Wyoming
DECIDED	December 1, 2010
DOCKET	S-09-0251; S-09-0252
DISPOSITION	affirmed
PROCEDURAL POSTURE	Douglas appealed the district court's summary judgment for Randall in a guardianship and conservatorship proceeding. The guardian ad litem separately appealed the summary judgment order. The Wyoming Supreme Court dismissed the guardian ad litem's appeal for lack of standing and affirmed the summary judgment entered for Randall.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, using the same standards and materials as the district court. The record is viewed in the light most favorable to the nonmoving party, with all fairly drawn favorable inferences. Questions of law, including statutory construction, are reviewed de novo.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Carl Douglas Boykin, M. Gregory Weisz, Guardian ad Litem, in Case No. S-09-0252 v. Randall K. Boykin, acting for Nina H. Parkhurst

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QUESTIONS PRESENTED

1. Whether the district court's order appointing a guardian ad litem decided the necessity of appointing a guardian or conservator and therefore became binding under the law-of-the-case doctrine.
2. Whether genuine issues of material fact existed concerning the necessity for appointment of a guardian or conservator.
3. Whether the guardian ad litem had standing to appeal the district court's summary judgment order.

HOLDINGS

1. The guardian ad litem lacked standing to appeal the summary judgment because he was appointed to investigate and report to the district court, had no personal stake in the controversy, and was not a party.
2. The district court's decision to appoint a guardian ad litem did not decide that appointment of a guardian or conservator was necessary and therefore did not preclude later summary judgment on the necessity issue.
3. Summary judgment for Randall was proper because the record contained no genuine issue of material fact showing a present necessity for appointing a guardian or conservator.
4. The governing Wyoming statutes do not authorize appointment of a guardian or conservator solely to impose an additional accountability mechanism where no present necessity for appointment has been established.

KEY QUOTATIONS

“The GAL functioned more as a witness than anything else. However, he has no interest in the outcome of this case and the mere fact that he prepared a report does not vest him with the status of a party.” (243 P.3d at 965)

“Here, it is quite unmistakable that the district court did not decide the issue of whether or not a guardian/conservator was a “necessity,” it only decided that in the interests of caution that further independent inquiry was warranted before a decision about “necessity” was finally made.” (243 P.3d at 967)

“And, absent some showing of present necessity, the Court will respect Parkhurst's wishes.” (243 P.3d at 970)

“Douglas has failed to come forward with anything more than speculation, conjecture, suggestions of possibilities, guesses, and perhaps even some probabilities.” (243 P.3d at 971)

FACTUAL BACKGROUND

Nina H. Parkhurst executed a durable general power of attorney naming her son Randall Boykin as attorney-in-fact for management of her estate and day-to-day affairs, and an advanced health care directive naming him to make health care decisions upon her incapacity. After Parkhurst developed Alzheimer's disease, her son Douglas petitioned for a guardian and conservator, alleging inadequate care, isolation, and potential misuse of Parkhurst's assets. A guardian ad litem investigated and found that Parkhurst was being adequately cared for and that her estate was being properly managed, although the GAL recommended appointment of a guardian and conservator to provide additional accountability.

PROCEDURAL HISTORY

Douglas petitioned for appointment of a guardian and conservator for his mother, Nina H. Parkhurst, alleging inadequate care and vulnerability of her estate because of Randall's durable powers of attorney. The district court initially appointed a guardian ad litem to investigate whether appointment was necessary. After receiving the GAL's report, the district court granted Randall summary judgment, finding no genuine issue of material fact concerning necessity. Douglas and the GAL appealed.

DISPOSITION

affirmed

CASES CITED

- Pedro/Aspen, Ltd. v. Board of County Commissioners for Natrona County, 2004 WY 84, 94 P.3d 412 (Wyo. 2004)
- Jolley v. State Loan and Investment Board, 2002 WY 7, 38 P.3d 1073 (Wyo. 2002)
- Roe v. Board of County Commissioners, Campbell County, 997 P.2d 1021 (Wyo. 2000)
- McNeel v. McNeel, 2005 WY 36, 109 P.3d 510 (Wyo. 2005)
- In re Adoption of C.F., 2005 WY 118, 120 P.3d 992 (Wyo. 2005)
- Rowe v. Rowe, 2009 OK 66, 218 P.3d 887 (Okla. 2009)
- Christensen v. Carbon County, 2004 WY 135, 100 P.3d 411 (Wyo. 2004)
- Metz Beverage Co. v. Wyoming Beverages, Inc., 2002 WY 21, 39 P.3d 1051 (Wyo. 2002)
- Throckmartin v. Century 21 Top Realty, 2010 WY 23, 226 P.3d 793 (Wyo. 2010)
- Triton Coal Co. v. Husman, Inc., 846 P.2d 664 (Wyo. 1993)
- Brown v. State, 953 P.2d 1170 (Wyo. 1998)
- Wessel v. City of Albuquerque, 463 F.3d 1138 (10th Cir. 2006)
- Lieberman v. Mossbrook, 2009 WY 65, 208 P.3d 1296 (Wyo. 2009)
- Bloomer v. State, 2009 WY 77, 209 P.3d 574 (Wyo. 2009)
- Parkhurst v. Boykin, 2004 WY 90, 94 P.3d 450 (Wyo. 2004)
- Estate of Ellis, 28 So. 3d 589 (Miss. 2009)
- Russell v. Chase Investment Services Corp., 2009 OK 22, 212 P.3d 1178 (Okla. 2009)
- In re Guardianship of Sim, 225 Neb. 181, 403 N.W.2d 721 (1987)

- Estate of Murray, 14 Misc. 3d 591, 824 N.Y.S.2d 864 (N.Y. 2006)
- Yates v. Rathbun, 984 So. 2d 1189 (Ala. Civ. App. 2007)

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