

MONTANA SUPREME COURT

In re the Guardianship & Conservatorship of J.C.

337 Mont. 156 (2007) · Decided May 1, 2007

SUMMARY

The Montana Supreme Court affirmed the appointment of Greg and Janice Hanson as temporary and permanent guardians of two minor children. The court held that the mother’s parental rights were suspended by circumstances based on clear and convincing evidence, including her prior admissions that she was unable to care for the children and her lack of custody since 1999. The court also concluded that she waived any right to a hearing on that issue and that the district court properly extended the temporary guardianship pending appointment of a permanent guardian.

CASE DETAILS

COURT	Montana Supreme Court
WRITING FOR THE COURT	Leaphart; Gray; Cotter; Warner; Morris; Nelson; Rice
JURISDICTION	Montana
DECIDED	May 1, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court order granting guardianship of minor children to the Hansons and determining that the mother's parental rights were suspended by circumstances.
STANDARD OF REVIEW	Conclusions of law related to appointment of a guardian are reviewed for correctness; factual findings are reviewed for clear error; evidence that a parent is not fit must be clear and convincing.
PRECEDENTIAL VALUE	Published
PARTIES	A.C. (mother) v. Greg Hanson, M.D. and Janice Hanson (Hansons)

TOPICS

- guardianships
- probate procedure
- family law
- due process
- constitutional law

PRACTICE AREAS

- Guardianship
- Probate
- Family Law
- Constitutional Law

QUESTIONS PRESENTED

1. Did the District Court properly determine that the mother's parental rights were suspended by circumstances?
2. Did the District Court err in appointing a temporary and then a permanent guardian when the mother had withdrawn her consent?

HOLDINGS

1. Yes. The District Court properly determined that A.C.'s parental rights were suspended by circumstances based on clear and convincing evidence, and A.C. waived her right to a hearing.
2. No. The District Court did not err in appointing temporary and permanent guardians despite A.C.'s withdrawal of consent because A.C.'s parental rights were suspended by circumstances, and the court had authority to extend the temporary guardianship and appoint a permanent guardian without parental consent.

KEY QUOTATIONS

“The court may appoint a guardian for an unmarried minor if all parental rights of custody have been terminated or if parental rights have been suspended or limited by circumstances or prior court order.” (at 162)

FACTUAL BACKGROUND

A.C., the biological mother of J.C. and A.N.C., has cerebral palsy and an estimated IQ of 67. The children were placed in state care in 1998 due to neglect, then permanently placed with their father R.S. in 2000. In July 2004, R.S. was arrested for deliberate homicide and executed a power of attorney placing the children with the Hansons, who had previously been foster parents and provided ongoing care. The Hansons and the Claflins both filed guardianship petitions. A.C. initially supported the Claflins but later withdrew consent. The district court found A.C.'s parental rights suspended by circumstances based on her admissions, prior neglect findings, disability, and the length of time without custody.

PROCEDURAL HISTORY

The Hansons and the Claflins filed competing guardianship petitions on July 27, 2004. The district court appointed the Hansons as temporary guardians on December 21, 2004. After a scheduling order and motions, the court determined on March 2, 2006, that A.C.'s parental rights were suspended by circumstances. Following a final hearing on April 21, 2006, the court appointed the Hansons as full guardians. A.C. appealed.

DISPOSITION

affirmed

CASES CITED

- In re Guardianship of D.T.N., 275 Mont. 480, 914 P.2d 579 (1996)

- In the Matter of Guardianship of Aschenbrenner, 182 Mont. 540, 597 P.2d 1156 (1979)
- In re C.R.O., 2002 MT 50, 309 Mont. 48, 43 P.3d 913
- Boddie v. Connecticut, 401 U.S. 371 (1971)
- Stuart v. Dept. of Social & Rehab. Serv., 247 Mont. 433, 807 P.2d 710 (1991)

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