

S T A T E O F M I C H I G A N

C O U R T O F A P P E A L S

In the Matter of M.J., Minor.¹

FAMILY INDEPENDENCE AGENCY,
Petitioner-Appellee,

v
WILLIE JOHNSON,
Respondent-Appellant,

and

DOROTHY JOHNSON,
Respondent.

In the Matter of M.J., Minor.

FAMILY INDEPENDENCE AGENCY,
Petitioner-Appellee,
v
DOROTHY JOHNSON,
Respondent-Appellant,

and

UNPUBLISHED
August 19, 2004

No. 253311
Wayne Circuit Court
Family Division
LC No. 03-419503

No. 253545
Wayne Circuit Court
Family Division
LC No. 03-419503

¹ The minor child's given name was misspelled on the petition and subsequent court documents, including the order appealed. His name is correctly spelled "Malachi."

WILLIE JOHNSON,

Respondent.

Before: Cavanagh, P.J., and Jansen and Saad, JJ.

PER CURIAM.

Respondents appeal as of right from the trial court order adjudicating the minor child a temporary ward of the court under MCL 712A.2(b). We reverse.

Respondents argue that the trial court order exercising jurisdiction over the minor child was not supported by a preponderance of the evidence. We agree. This Court reviews questions of law de novo. *In re CR*, 250 Mich App 185, 200; 646 NW2d 506 (2002). Here, the trial court correctly found the document drafted by the child's godmother, Elizabeth Blade, ineffective to confer guardianship or custody on the Blades. Guardianship is a legal term of art, and court intervention is required to create a guardianship. *In re Systma*, 197 Mich App 453; 495 NW2d 804 (1992). The document in this case was undated, and Ms. Blade was both a witness and granted authority under the document. However, the document did clearly state and attempt to formalize respondent mother's wishes regarding the child's care in her absence. For this reason, we believe the trial court should have accorded the document some weight.

We further conclude that when the petition was filed on June 10, 2003, the trial court's continued exercise of jurisdiction over Malachi was not supported by a preponderance of the evidence. Respondent mother had been released from the hospital with psychotropic medications on May 28, 2003. She was in counseling. Moreover, she returned to live in the Blades' home, which was described by Judith Walton of Healthy Start as clean, orderly, and peaceful. Ms. Walton had worked with respondent mother and Ms. Blade, and had no concerns regarding respondent mother's ability to properly care for the child. Additionally, by the time the petition was filed, respondent father had come back from Chicago and was living in the home. The baby had his own room and the parents slept in another room on the same floor. While Protective Services' concerns may have been justified initially when respondent mother was hospitalized and respondent father could not be reached, the evidence showed that any real or perceived threat to Malachi's safety had ceased by the time the petition was filed on June 10, 2003. The state's involvement was no longer justified, and the child did not come within the provisions of MCL 712A.2(b) (1) or (2).

Reversed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Henry William Saad