

# The Family Court of the State of Delaware

## In and For New Castle County

Petitioner

Respondent

<b>D----- and S----- W-----</b>    
Attorney <b>Patrick Boyer, Esquire</b>

<b>D----- H-----*</b>    <b>and</b> <b>S----- T-----**</b>    <b>and</b> <b>R----- T----- (deceased)</b>
Attorney <b>Self-represented*</b> <b>William O'Day, Esquire**</b>

File No. <b>CN17-03720</b>
CPI No(s) <b>17-17693</b>
Nature of Proceeding <b>Petition for Guardianship</b>
Dates of Hearing <b>January 11, 2018, February 13, 2018, and February 16, 2018</b>
Date of Decision: 3/15/18 Date Mailed/emailed: 3/15/18

### ORDER – PETITION FOR GUARDIANSHIP

Before the **HONORABLE JANELL S. OSTROSKI**, Judge of the Family Court of the State of Delaware, is the Petition for Guardianship filed on June 8, 2017, by D----- and S----- W----- (herein “Petitioners”), represented by Patrick Boyer, Esquire, against D----- H----- (herein “Mother”), self-represented, S----- T----- (herein “current Guardian”), represented by William O’Day, Esquire, and R----- T----- (herein “Father”), who is deceased. The Petition was filed in the interest of C----- T-----, born -----, -----, and D----- T-----, born -----, -----, (herein “minor children”). The Court held a hearing over the course of two (2) days, January 11, 2018, and February 13, 2018. The Court heard testimony from D----- W-----, current Guardian, Mother, N----- H----- (Maternal Grandmother), M----- T----- (Paternal Aunt), and T--- R----- (friend of the current Guardian). The Court interviewed the children on February 16, 2018.

### PROCEDURAL HISTORY

The Petitioners are Mother’s sister and brother-in-law. The current Guardian is the sister the children’s late Father. Immediately following Father’s death in October, 2010, there were competing Petitions for Guardianship filed; one filed by the Petitioners (the W-----) and one filed jointly by the current Guardian and Paternal Grandmother. After a hearing, and for reasons that are not clear from the file, Judge Conner granted the current Petitioner’s Petition and denied the Petition filed by the paternal relatives. While the W----- had Guardianship, Maternal Grandmother filed a Petition for Guardianship which was resolved by a Stipulation of Dismissal. In May, 2011, the W----- agreed to rescind their Guardianship Order and Mother regained custody of the children.

Less than a year later, in April, 2012, the current Guardian obtained Guardianship of the children with Mother’s consent. After the current Guardianship Order was entered, Maternal Grandmother was granted third-party visitation with the children. Mother has filed twice for the Guardianship Order to be rescinded, but her petitions were dismissed as she failed to appear for the hearing and she failed to appear for mediation.

The W----- filed the current Petition against the current Guardian and Mother on June 8, 2017.

### **FACTUAL FINDINGS**

C----- was born in 2004 and D----- was born in 2007. The children lived off and on with Mother and Father until Father died on October 16, 2010. At that time, they moved in with the W-----, the current Petitioners, who are maternal relatives. The children remained with the W----- until May 16, 2011, when the Guardianship Order was rescinded and the children moved back to Mother's home. Ms. W----- testified that she and her husband agreed to rescind the Guardianship Order because they "felt that it was important to them, the girls, and Mother to rescind the Guardianship Order."

Ms. W----- testified that there were many "stressors" in their lives when they had Guardianship of the children. Mr. W----- had a chronic illness and the children were dealing with the loss of their Father. She also claimed it was stressful because Paternal Grandmother and the current Guardian were contacting the Division of Family Services (herein "DFS") and making "false claims of neglect" which required Ms. W----- and her husband to often leave work to go home to address the claims that were made. She further claims that similar complaints were being made to their internal affairs office with the Delaware River and Bay Authority and they had to defend themselves at work. Finally, Ms. W----- asserts that Paternal Grandmother, the current Guardian, and Maternal Grandmother were constantly filing petitions with Family Court causing Ms. W----- and her husband to constantly go to Court. Ms. W-----'s assertion regarding Court filings is not supported by the record. A review of the Court's files indicates once the current Petitioner's Guardianship was granted in 2011, the only Petition filed was a Petition for Guardianship filed by Maternal Grandmother and that Petition was resolved by a Stipulation of Dismissal. Ms. W----- testified that she was hurt that her own mother did not support her and her husband having the children in 2011. Maternal Grandmother supports the W-----'s current Petition. Mother supports their Petition as well.

After the W----- agreed to return the children to Mother in 2011, the children lived with Mother until the current Guardian obtained Guardianship of the children in April, 2012. Mother testified that she consented to the current Guardian having Guardianship of the children because she was having issues with drugs at the time and she did not want the children to live with Maternal Grandmother whom she believed was going to file for Guardianship. No maternal relatives filed for Guardianship at the time that the current Guardian, Ms. T-----, filed. Ms. T----- is father's sister and has cared for the children since 2012 without assistance from Mother or maternal relatives. At the time she filed for Guardianship, Ms. T----- had two (2) children of her own and had her own home. She now has four (4) children of her own and lives with her parents.

Since living with the current Guardian, the children have had three (3) different residences. In 2012, the Guardian and Marie T----- (another Paternal Aunt) bought a home together. They resided in the home together for two (2) years before the home was foreclosed upon. The Guardian and the children then moved into a home that she was renting with her then boyfriend. The Guardian admitted that an eviction notice was filed against her and her boyfriend but asserts she moved out before she was actually evicted. The Guardian and the children then moved in to the Paternal Grandparents' home where they continue to reside now.

There are eleven (11) people living in the Paternal Grandparents' home, including four (4) adults and seven (7) children. The members of the home include Paternal Grandparents, Ms. T----- and her four (4) children (M---- age 15, V---- age 9, A----- age 3, and J----- who is an infant), Paternal Aunt and her daughter (S---- age 11), and the two (2) children who are the subject of this Petition. There are also four (4) dogs, a cat, and a rabbit in the home. All of the children have developed a relationship and act more like siblings than cousins.

C----- is in eighth grade at Springer Middle School and D----- is in fifth grade at Hanby Elementary School. Neither child has attendance issues or any behavioral issues in school. Both of the children are doing very well in school and have both received honors. The Guardian testified that at one point D----- had a tutor in reading, but she has since progressed in reading and no longer needs a tutor. The Guardian or Paternal Aunt share caretaking responsibilities of all of the children including helping them with their homework at night.

The children participate in activities at school. C----- plays the flute and D----- plays basketball. The Petitioners have never been to any of the children's events, with the exception of recent basketball games for D----- when the children were visiting the Petitioners. The children have received achievement awards at ceremonies in school. The Petitioners have never attended any of their awards ceremonies. The Guardian does not tell the Petitioners about the events and leaves it up to the children to tell them about the event. It is possible the children have never told the maternal relatives about the events. The Guardian indicated she attends every ceremony or school event that she can.

Further description of the relevant facts in this case are discussed in the analysis of the best interest factors below.

### **LEGAL STANDARD**

Pursuant to 13 Del. C. § 2330(c), when a Petition for Guardianship is filed against a current Guardian, the Court must find that either each parent “consents to the guardianship” or “that the petitioner has established that the child is dependent, neglected or abused ... and it is in the best interests of the child for the guardianship to be granted.” If the parent consents or the Court finds the children are dependent, neglected, or abused, then the Court uses the best interest standard<sup>1</sup> to determine if the Petition should be granted.

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<sup>1</sup> 13 Del. C. § 722(a) provides: The Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the Court shall consider all relevant factors including:

- (1) The wishes of the child's parent or parents as to his or her custody and residential arrangements;
- (2) The wishes of the child as to his or her custodian or custodians and residential arrangements;
- (3) The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;
- (4) The child's adjustment to his or her home, school and community;
- (5) The mental and physical health of all individuals involved;
- (6) Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of this title;
- (7) Evidence of domestic violence as provided for in Chapter 7A of this title; and
- (8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.

Mother has consented to the instant Petition for Guardianship and Father is deceased. Therefore, the Court must analyze the facts according to the best interest standard to determine if the W----- should have Guardianship instead of Ms. T-----.

### **DISCUSSION**

Petitioners are married and both work as police officers for Delaware and River Bay Authority. They live in a three-bedroom home in Bear, Delaware and believe they can provide the children with a “better” living situation. Ms. W----- testified that they could “demonstrate a two (2) parent household” and that they would be able to “mentor” the children while providing them with structure and discipline. She asserts that they would provide the children with “individual care” in their home as there are no other children in the home. She also stressed that the children would have privacy in their home as they would have their own bedrooms and bathroom. Ms. W----- testified that she and her husband plan to increase the children’s participation in extracurricular activities if they are awarded Guardianship. The children would need to change schools if they moved to the W----- home in Bear, Delaware.

Ms. W----- added that if the children were to live with her and her husband, they would like them to maintain a relationship with the Guardian and their cousins. Further, they would be willing to work on the children’s relationship with Mother. She explained that it would be a slow process but they have talked to a psychologist about how the children could regain communication and a relationship with Mother. Mother supports the W-----’ Petition and would like to work on her relationship with the children when she is stable in her recovery.

Petitioners allege that the current Guardian cannot adequately care for the children and that it is in the children’s best interest for the Petitioners to have Guardianship. They assert that the current Guardian’s home is too crowded, the girls do not have any privacy at their home, the girls have to hide their food and money, the children’s clothes and the home smell like cat urine and dog feces, the home is unkept and cluttered, the home has Violation Notices from the County<sup>2</sup>, the children do not have appropriate clothing<sup>3</sup>, the children wear shoes or clothes with holes in them<sup>4</sup>, the children do not have winter coats, the children do not shower enough and are not given deodorant, the children do not brush their teeth, their hair is not kept<sup>5</sup>, the children are not permitted to communicate with maternal relatives, and Ms. T----- does not care for the children’s medical, dental, or mental health needs. Ms. W----- admitted that much of the information she provided the Court was based on statements the children made to her or the Maternal Grandmother when they were visiting.

The Guardian believes that she has appropriately cared for the children and can continue to provide appropriate care. She explained that she thought she had a good relationship with the Petitioners and Maternal Grandmother but that neither of them have offered to help her with the children. The Guardian supports the children and her own children with income from her job as a Unit Clerk in the Psychiatric Department of Christiana Care. During the week, she works Monday through Friday from 3:00 p.m. until 11:00 p.m. She also works every other weekend from 7:00 a.m. until 3:00 p.m. She expects her work schedule to change soon as the department is moving and she will be working during the week from 7:00 a.m. until 3:00 p.m. and one (1) weekend per month. She also

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<sup>2</sup> See Petitioner’s Exhibit 14.

<sup>3</sup> See Petitioner’s Exhibit 12.

<sup>4</sup> See Petitioner’s Exhibit 1.

<sup>5</sup> See Petitioner’s Exhibits 5, 8, and 9.

receives child support from the fathers of her children and death benefits for both C----- and D-----.

Ms. T----- asserts that she is able to properly care for the children and that it is in their best interest to remain in her care. She claims that while her house may be crowded and cluttered<sup>6</sup>, it is clean and there is sufficient room and food for all of the children. She admitted they received a “Violation Notice” for violations of New Castle County’s Property Maintenance Code,<sup>7</sup> but that all violations have been resolved. She further claims that the children have clothes that fit them and that are appropriate for the seasons. She denies that her home smells like cat urine or dog feces and alleges that the children bathe every other day and have the appropriate supply of deodorant and toothpaste. She indicates that while she has restricted the children’s use of social media for their own safety, she has never stopped them from communicating with relatives. She further alleges that she has met and continues to meet the children’s medical, dental, and mental health needs.<sup>8</sup> To support her claim, she explained that C----- is in counseling and all the children have had regular medical and dental appointments. Finally, the current Guardian alleges that the Petitioners do not have a relationship with the children and have not been part of their lives on a regular basis since she obtained guardianship.

### **§ 722 FACTORS**

#### ***1. The wishes of the child’s parent or parents as to his or her custody and residential arrangements;***

Father is deceased and Mother consents to the Guardianship Petition. She believes that the Petitioners can provide the children with a more stable environment and it is in the children’s best interest to live with her sister and brother-in-law. She is also concerned as to whether the current Guardian is able to adequately care for these two (2) children as the current Guardian now has four (4) children of her own and lives with Paternal Grandparents in a home with 11 people and numerous pets.

The Court finds that this factor favors the Petitioners’ position that they should be awarded Guardianship. However, the Court will give this factor the appropriate weight as the evidence was clear that Mother has not been in the children’s lives for some time, has not been to the Guardian’s current home, and does not regularly communicate with the Guardian to see how the children are doing.

#### ***2. The wishes of the child as to his or her custodian or custodians and residential arrangements;***

The Court interviewed the children separately on February 16, 2018.

#### **C-----:**

C----- knew she came to Court to talk about where she wants to live. C----- was very clear to the Court that she wants to continue living with the current Guardian. She acknowledged that the home is crowded but claims she is happy there. She denies that they don’t have enough space, food, or privacy and denies that the house has pet odors except when the pets are wet from being

<sup>6</sup> See Petitioner’s Exhibits 5, 6, 7, and 10.

<sup>7</sup> See Petitioner’s Exhibit 14.

<sup>8</sup> See Respondent’s Exhibits 1 and 2.

outside in the rain. She feels she has adequate clothing and denies having holes or tears in her shoes or clothes.

C----- enjoys visiting with Maternal Grandmother. She indicated that prior to the start of these proceedings, the Petitioners “did not come over a lot” (to Maternal Grandmother’s home) and when they did come over, it was for dinner or to talk to Maternal Grandmother. She would like to continue visiting with Maternal Grandmother and see the Petitioners when they are at Maternal Grandmother’s home. She does not feel a need to continue monthly visits at Petitioners’ home in addition to the monthly visits at Maternal Grandmother’s home.

C----- was surprised that the Petitioners filed the instant Petition and indicated that they did not talk to her about filing the Petition before doing so. She denies telling the W----- that she does not have appropriate food, clothing, or privacy in her current home.

C----- does not have a relationship with Mother. She believes that Mother is using drugs and because of that she does not want a relationship with Mother right now. She is open to possibly having a relationship with Mother in the future.

C----- is currently in counseling and has been for the past three (3) years. She told the Court that she just recently switched therapists because the previous one was “not qualified enough”. C----- feels that counseling is helping her and feels that it is “nice” to have someone with whom she can talk.

**D-----:**

D----- also knew she came to Court to talk about where she wants to live. She was clear that she wants to continue living with the current Guardian. D----- likes living with Ms. T----- and her other family members. She described the Guardian’s home as “fun” and “good”. She indicated that she has everything she needs at the Guardian’s home. D----- reported to the Court that there are four (4) dogs, one (1) cat, and one (1) rabbit in the home. Two (2) of the dogs sleep with the Guardian, one (1) sleeps with “mom-mom”, and the other sleeps with Paternal Aunt. She did not recall the animals ever having accidents in the home or that there was a smell. D----- enjoys living with the Guardian because there are a lot of people to play with at their home. The children are also able to play with the friends that they have at the Guardian’s home.

She likes visiting with Maternal Grandmother and would like to continue that visitation and see the W----- on those weekends. D----- does not seem interested in continuing monthly visits at the Petitioners’ home. D----- also indicated that she had no idea why the Petitioners filed the instant Petition as they had not discussed it with her or C----- before they filed.

D----- stated that she does not really have a relationship with Mother as she has not seen Mother in two (2) years. D----- was open to having a relationship with her in the future.

D----- told the Court that she is doing well in school and would like to continue going to her current school. She has received honors two (2) times now. She enjoys playing basketball for her school. The Guardian has come to her games but Ms. W----- has only been to two (2) of her games.

The Court finds that this factor strongly supports the children remaining with the Guardian. Both children expressed a clear desire to continue living with Ms. T-----. Neither child expressed any concerns regarding the Guardian’s home. They further expressed a desire to end the monthly visits to the W-----’ home but wish to continue seeing them at Maternal Grandmother’s home.

**3. *The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabitating in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;***

Neither one of the children have a relationship with Mother. Mother was released from prison in November, 2017, and is now on level 3 probation and required to complete the TASC program. Mother thinks it is important for her to work on herself before she tries to have a relationship with her children again. The Court commends Mother for her journey in recovery and putting her children's needs first.

The children have a good relationship with the Maternal Grandmother and want to continue visiting her on a monthly basis. They appear to like the Petitioners despite not choosing to live with them. They would like to continue to see the Petitioners when they visit with Maternal Grandmother.

Ms. W----- testified that she and her husband have a good relationship with the children. She asserts that they filed the instant Petition based on the things the children told them. However, the children deny making statements to the Petitioners about their living situation in the Guardian's home. Both children do not want to continue the monthly visits with the Petitioners and both claim to have no idea why the instant Petition was filed. They both asserted that they have everything they need with the Guardian and that they never told anyone otherwise. It is hard for the Court to determine whether the children in fact made all of the comments that they are alleged to have made or whether they only made comments that were interpreted in a certain way. It is also possible that the children made statements and have since changed their mind. What is clear is that they are currently denying making negative statements about their living arrangements and currently want to stay where they are.

It was clear from the testimony that the children have bonded with the members of the Guardian's home. The Guardian explained that all of the children in the home have a bond that is similar to siblings rather than cousins. It was also clear that the children have a good relationship with the Guardian as they both expressed a desire to continue living with her.

The Court finds this factor supports the children remaining with the current Guardian.

**4. *The child's adjustment to his or her home, school and community;***

It is clear to the Court that the children are well adjusted to their home and school with the current Guardian. They like their schools and based on their current report cards, they are doing well in their schools. Both children also participate in activities at their respective schools and enjoy the activities. They want to continue attending their current schools. They have friends at school and at home and enjoy the "sibling" relationship with all of the children in their current home. They have bonded with the adult members of their household as well and those adult members help care for them on a daily basis. The current Guardian and her sister (the children's other paternal aunt) share caretaking responsibilities for all of the children as they alternate their work schedules. The home is admittedly crowded and "cluttered" but witnesses and the children report that the home is clean regardless.

The Petitioners assert that they can provide the children with a "better" living situation than the current Guardian as they would be the only children in the home as compared to the five (5) other children in their current home. The children would have privacy in their own bedroom and bathroom. They would have sufficient food and clothing in the Petitioner's home. And, with fewer children, the Petitioners would be able to expand their extracurricular activities.

Maternal Grandmother supports the W-----' Petition and testified that when she went into the Guardian's home there were newspapers piled up, dirty dishes in the kitchen, bins everywhere, and that the house smelled of cat urine and dog feces. Her testimony was contrary to the Guardian, Paternal Aunt, the Guardian's friend, and the children who indicated that Maternal Grandmother has never been in the home, that there were never newspapers piled up in the home because they do not subscribe to the newspaper, that the house is regularly cleaned, and that the home does not smell of cat urine or dog feces. The children deny that the animals go to the bathroom in the basement where the clothes are kept. The Court credits the testimony of the majority of the witnesses over Maternal Grandmother's testimony.

The Court finds that this factor supports the children remaining with the current Guardian. Although the Guardian's home may be crowded with eleven (11) people, the children enjoy living in a home with their extended family members. While the Court commends the Petitioners for wanting to provide what they believe would be a "better" living situation for the children, the Court finds the children are well adjusted to their current home and schools and the current Guardian is meeting their needs.

#### ***5. The mental and physical health of all individuals involved;***

Ms. W----- reports that her health is "fine". Mr. W----- sees a pain management doctor for chronic pain. The Guardian reports her health is "fine". The Court does not have information as to D-----'s health.

C----- has been diagnosed with anxiety and depression. She is in counseling and she confirmed that she has been going to counseling for the past three (3) years. The Guardian ensured that C----- received counseling when she was concerned about her mental well-being and even changed therapists when she believed her therapist was not properly addressing her needs.

There was an incident in spring of 2017 when C----- had intentionally cut herself. Ms. T----- saw the marks on C----- when she returned home from a weekend visit with Maternal Grandmother. Ms. T----- contacted the Maternal Grandmother to see if she knew anything about the marks. Maternal Grandmother admitted that she did not respond to Ms. T----- but instead forwarded the message to Ms. W-----. Neither Ms. W----- nor Maternal Grandmother have discussed the issue with Ms. T----- or the child.

The Guardian testified that she has managed the children's healthcare and that the children regularly attend their doctor's appointments and go to the dentist every six (6) months. She provided evidence of same with the exception of one year when they may have missed their physicals.<sup>9</sup> It is undisputed that the children's medical records reflect that they have had lice four (4) times. The Guardian explained that she is not sure which child had lice first as when one child in the home had lice, she called the doctor so that all of the children could be treated for lice.

The Court finds that this factor supports the children remaining with the Guardian. The children have had medical issues but the Guardian has addressed them and is meeting their needs. The Petitioners have not necessarily had the opportunity to address the children's medical needs but, the one time they had the opportunity to help, they apparently chose not to get involved.

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<sup>9</sup> See Respondent's Exhibits 1 and 2.

**6. Past and present compliance by both parties with their rights and responsibilities to their child under § 701 of this title;<sup>10</sup>**

This case is unique in that neither the current Guardian nor the Petitioners have an obligation to support these children. The Petitioners stepped up in 2010 to care for the children when Father died. They returned the children to Mother when they thought she was able to care for them. The current Guardian stepped up in 2012 when Mother was not able to care for the children and has continued to care for the children for the past six (6) years without assistance from Mother or the maternal relatives. She's done the best she could with all of the challenges she has faced. The Court commends the Petitioners and the current Guardian for being there for the children over the years.

However, overall, the current Guardian has been more of a constant figure in the children's lives than the Petitioners. She has always made sure they had appropriate housing and sufficient food. Despite Petitioner's allegations that the children do not have proper clothing, the Court finds that current Guardian has provided appropriate clothing for them recognizing that teenagers and pre-teens sometimes have strong opinions as to what they want to wear and how they want to style their hair. The current Guardian has attended to their medical needs. Just because children have lice does not mean the lice came from Guardian's home. Lice is very contagious in schools and Petitioners did not prove that the Guardian's home was the source of the lice. She has made sure that C----- received counseling when she saw that need.

The Guardian is appropriately addressing the children's education as evidenced by the children's report cards. The children are doing well in school and both have received honors. The Guardian attends all of the children's conferences and reports that the children are not having any issues in school. The children were clear that the current Guardian and paternal relatives attend their school events and extracurricular activities and the Petitioners and maternal relatives do not.

The children were clear that they have everything they need and the Court has no basis to doubt them. While the Court commends the Petitioners for offering to support the children now, it is undisputed that the Petitioners nor any member of the maternal side of the family have offered to help the Guardian with the children since the current Guardianship Order was entered. For all of the foregoing reasons, the Court finds this factor supports the children remaining with the Guardian.

**7. Evidence of domestic violence as provided for in Chapter 7A of this title;<sup>11</sup> and**

There was no evidence of domestic violence presented during the hearing. The Court finds this factor is neutral.

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<sup>10</sup> 13 Del. C. § 701(a) states in relevant part: "The father and mother are the joint natural guardians of their minor child and are equally charged with the child's support, care, nurture, welfare, and education."

<sup>11</sup> 13 Del. C. § 706A in relevant part states:

(a) Any evidence of a past or present act of domestic violence, whether or not committed in the presence of the child, is a relevant factor that must be considered by the court in determining the legal custody and residential arrangements in accordance with the best interests of the child.

**8. *The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.***

The Court has reviewed the criminal histories of the parties and the members of their households. The only person who has a criminal history that is somewhat concerning to the Court is Mother. However, Mother is not asking for the children to be in her home. Therefore, the Court finds this factor to be neutral.

**CONCLUSION**

Based upon its analysis of the best interest factors, the Court finds that factor (1) supports the Petitioners, factors (2), (3), (4), (5), and (6) support the children remaining with the Guardian, and factors (7) and (8) are neutral.

The Court understands that Petitioners have the children's best interest in mind when they filed their Petition. It is clear that both the Petitioners and the current Guardian and her family all love the children very much. These children are fortunate to have so many people who love them and are willing to care for them. However, simply providing more space and what might be considered a more luxurious lifestyle is not the only factor the Court must consider in this case. Based upon the evidence and testimony presented, the current Guardian is meeting the children's needs and although the home may be crowded, the children are happy and they are prospering in the Guardian's home.

The children were clear that they want to continue living with the current Guardian and there simply was not enough evidence that there is a need to make a change that would result in the children leaving the home and family they have known for almost six (6) years and to move them from their current schools and friends.

Based upon the evidence and testimony, the Court finds that the Guardian is appropriately caring for the children and it is in their best interests to remain living with her. Furthermore, the children do not wish to continue monthly visits with the W----- in addition to their monthly visits with Maternal Grandmother. Counsel for the W----- indicated that if the Court were to deny their Petition, the W----- would be comfortable visiting the children on Maternal Grandmother's weekend.

**WHEREFORE**, the Petition for Guardianship is **DENIED**. The Interim Order giving the W----- monthly visits is terminated. The W----- may visit during Maternal Grandmother's weekend visitation. The current Guardian is encouraged to allow the children to visit the maternal side of the family if additional contact is requested by the children or the maternal relatives.

**IT IS SO ORDERED this 15<sup>th</sup> day of Mar, 2018.**

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**JANELL S. OSTROSKI**  
**Judge**

cc: Parties, Counsel, File