

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

Check the county in which you are filing.

PETITION FOR PERMANENT GUARDIANSHIP OF A MINOR

Petitioner

Respondent

Name Anne C. Smith	D.O.B. 2/3/1964	Name Michelle Jones	D.O.B. 11/12/1967
Street Address 101 Oak Street		Street Address 123 State Street	
P.O. Box Number #123		P.O. Box Number #123	
City/State/Zip Code Dover, DE 19901		City/State/Zip Code Dover, DE 19901	
Phone Number (302)-555-1111		Phone Number (302)-445-6898	
Relation to Child(ren) Maternal Aunt		Relation to Child(ren) Mother	
Attorney Name None		Attorney Name None	
Interpreter needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Language		Interpreter needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Language	

File Number CK04-0221
Petition Number 07-1553

Petitioner (if any)

Respondent (if any)

Name Scott R. Smith	D.O.B. 3/14/1964	Name Steven Harding	D.O.B. 9/14/1969
Street Address 123 State Street		Street Address 454 Main Street	
P.O. Box Number #123		P.O. Box Number	
City/State/Zip Code Dover, DE 19901		City/State/Zip Code Dover, DE 19901	
Phone Number 302-555-1111		Phone Number 302-998-4745	
Relation to Child(ren) Maternal Uncle		Relation to Child(ren) Father	
Attorney Name None		Attorney Name None	
Interpreter needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Language		Interpreter needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Language	

Child Attorney (if any)

Name Jane Walker
Law Firm
Office Address 525 South Washington Street
City/State/Zip Code Dover, DE 19901
Phone Number 302-465-9889

IN THE INTEREST OF THE FOLLOWING CHILD(REN): (Complete the table below for each child for whom permanent guardianship is sought. Attach additional sheets if necessary.)

Child's Name	Child's Date of Birth	Child's Place of Birth (City, State)	Child's Gender (Check one)
Douglas A. Smith	10/14/1991	Dover, DE	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female

1. Complete the table below regarding the child(ren)'s parents (individuals holding parental rights):

	NAME	Address	Date of Birth
MOTHER	Michelle Jones	123 State Street Dover, DE 19901	11/12/1967
FATHER	Steven Harding	454 Main Street Dover, DE 19901	9/14/1969

2. If you do not know the name/address of the child(ren)'s mother and/or father, write in the space provided below what you have done to try to locate him/her/them.

names and addresses have been indicated above.

➤ I have attached to this Petition the following affidavits:

Affidavit that a Party's Address is Unknown

3. Name(s) of the person(s) or organization **holding parental rights** of the child(ren):
Michelle Jones and Steven Harding

Address of person(s) or organization:

See Above

4. Name(s) of the person(s) or organization **having the guardianship, care, control or custody** of the child(ren): Anne and Scott Smith

Address of person(s) or organization if address is different from address of Petitioner(s):

See Above

5. Name(s) of the person(s) to whom permanent guardianship shall be vested if this Petition is granted
Anne and Scott Smith

Address of person(s) or organization if address is different from address of Petitioner(s):

See Above

6. Proposed permanent guardian(s)' relationship to child(ren) if proposed permanent guardian is **NOT** the Petitioner: _____

7. Please check all that apply:

The following child(ren) is/are not yet 14 years of age or older:

OR

The child(ren) is/are 14 years of age or older and consents to (agree with) this Petition (Attach Affidavit of Consent executed by each child(ren) who consents) Name(s) of child(ren) 14 years of age or older who consent(s):

Douglas A. Smith

The Affidavit of Consent can be found in the forms packet.

The child(ren) is/are 14 years of age or older does/do NOT consent to (agree with) this Petition. Name(s) of child(ren) 14 years of age or older who do NOT consent:

The Affidavit of Consent can be found in the forms packet.

8. I am filing this petition because: (Check ALL that apply)

- The child(ren)'s parent(s) agree that I/we should become the guardian of the child(ren) (Attach an Affidavit of Consent executed by the parent(s) who agree).
- The child(ren)'s parent(s) are deceased. (Attach a certified copy of the death certificate)
- The child(ren) is/are dependant and/or neglected based on the following reason(s):

1) Both Mother and Father are currently in rehab for drug and alcohol abuse. Due to their drug habit, they have abandoned the child, leaving the child with the Petitioners for the past several years. It does not appear the Mother and Father have the ability or desire to regain custody of their child.

List your reasons in numbered paragraphs.

9. I acknowledge the following is true for the child(ren) named in this petition:

- Adoption of the child is not possible or appropriate;
- Permanent Guardianship is in the best interests of the child
- The proposed permanent guardian is a:
 - i. Relative (pursuant to 10 Del. C. §901(20)) (select relationship)
 - immediate family member
 - grandparent or great grandparent
 - uncle or aunt
 - first cousin
 - grand uncle or grand aunt
 - half brother or half sister
 - ii. Foster parent caring for the child for at least 6 months OR
 - iii. Guardian holding guardianship for at least 6 months

The proposed permanent guardian:

- i. Is emotionally, mentally, physically and financially suitable to become the permanent guardian;
- ii. Has expressly committed to remain the permanent guardian and assume the rights and responsibilities for the child for the duration of the child's minority (until the child is 18 years old); **AND**
- iii. Has demonstrated an understanding of the financial implications of becoming a permanent guardian;

If the child is at least 14 years old, the child consents to the permanent guardianship being granted.

If the proposed permanent guardian is a foster parent(s):

- i. The child is at least 12 years old; **OR**
- ii. The proposed permanent guardian is the permanent guardian of one of the child's siblings; **OR**
- iii. The child receives substantial governmental benefits for a serious physical and/or mental disability which would no longer be available to the child if parental rights were terminated and/or if the child was adopted.

I/We have made the following efforts to place the child for adoption (if applicable):

10. I have attached the Grounds for Permanent Guardianship for each child named above. I have indicated at least one Ground for Permanent Guardianship for each child named in this petition.

WHEREFORE, Petitioner(s) seek appointment as Permanent Guardian(s) of the above-named minor child(ren).

Anne C. Smith

12/15/2007

Scott R. Smith

12/15/2007

Petitioner

Date

2nd Petitioner (if any)

Date

Sworn to subscribed before me:

Sworn to subscribed before me:

Donna King

12/15/2007

Scott R. Smith

12/15/2007

Clerk of Court/Notary Public

Date

Clerk of Court/Notary Public

Date

Signed by notary or Court Staff

GROUNDS FOR PERMANENT GUARDIANSHIP

Complete the following for each child named in the Petition for Permanent Guardian

NAME OF CHILD: Douglas A. Smith

Indicate the grounds for Permanent Guardianship (**Place an "X" next to the grounds that apply.**)

1. The parent(s) of the child, or the person(s) or organization holding parental rights over such child agree (consent) that this Petition should be granted. (**Attached is/are the parent(s) affidavit of consent.**)
2. Respondent has abandoned the child **AND** intended to abandon the child as evidenced by the fact that: (**Place an "X" next to which reason applies**)
 - a. The child is younger than 6 months old and at the time of filing this Petition, Respondent failed to:
 - Pay reasonable prenatal, natal and postnatal expenses in accordance with Respondent's financial means; **AND**
 - Visit regularly with the child; **AND**
 - Manifest (show) an ability and willingness to assume legal and physical custody of the child (this third reason applies if the child was not in the physical custody of the other parent).
 - b. The child is at least 6 months old at the time of filing this Petition **AND** for at least six consecutive months (six months in a row) during the year immediately before filing the Petition, Respondent(s) failed to:
 - Communicate or visit regularly with the child; **AND**
 - Manifest (show) the ability and willingness to assume legal and physical custody of the child (this reason applies if the child was not in the physical custody of the other parent).
 - c. The child is younger than 6 years old at the time of filing this Petition **AND** Respondent has placed the child in circumstances leaving the child in substantial risk of injury or death and therefore has manifested (shown) the unwillingness to exercise parental rights and responsibilities.
3. Respondent has abandoned the child BUT did NOT intend to abandon the child because: (**Place an "X" next to which reason applies**)
 - a. For 12 consecutive months (12 months in a row) in the 18 months before filing this Petition, Respondent failed to:
 - Communicate or visit regularly with the child; **AND**
 - File or pursue a pending Petition to establish paternity or to establish the right to have contact or visitation with the child; **AND**
 - Manifest (show) the ability and willingness to assume legal and physical custody of the child (this third reason applies if the child was not in the physical custody of the other parent).

AND one of the below applies (**Place an "X" next to all that apply**):

The child is not in the legal and physical custody of the other parent and Respondent is not able or willing promptly to assume legal and physical custody of the child, and to pay for the child's support, in accordance with Respondent's financial means.

Placing the child in Respondent's legal and physical custody would pose a risk of substantial harm to the physical or psychological well being of the child. Respondent is unfit to maintain a relationship of "parent and child" with the child because of any of the following reasons:

- i. The circumstances of the child's conception; **OR**
- ii. Respondent's behavior during the mother's pregnancy; **OR**
- iii. Respondent's behavior after the child was born; **OR**
- iv. Respondent's behavior with respect to other children.

Failure to grant the Petition for Permanent Guardianship would be detrimental to the child.

4. The parent(s) of the child or any person(s) holding parental rights over such child are found mentally incompetent and therefore, are unable to discharge parental responsibilities in the foreseeable future. (The Court will select 2 qualified psychiatrists to form an opinion regarding mental incompetence and inability to discharge parental responsibilities. The Court also will appoint a licensed attorney as guardian ad litem to represent the alleged incompetent's interests in the proceeding)
5. Respondent has been found by a Court of competent jurisdiction to have: **(Place an "X" next to all that apply)**
- a. Committed a felony level offense as described in subchapter II of Chapter 5 of Title 11 against the person in which the victim was a child; **OR**
 - b. Aided or abetted, attempted, conspired or solicited to commit a felony level offense as described in subchapter II of Chapter 5 of Title 11 against the person in which the victim was a child; **OR**
 - c. Committed or attempted to commit the offense of Dealing in Children as set forth in § 1100A of Title 11; **OR**
 - d. Committed the felony level offense of endangering the welfare of a child as set forth in § 1102 of Title 11.
6. The parent(s) of the child, or any person(s) holding parental rights over the child, are not able or have failed to plan adequately for the child's physical needs or mental and emotional health and development, and 1 or more of the following conditions has been met: **(Place an "X" next to each condition that has been met)**
- a. If the child is in the care of the Department or a licensed agency, **place an "X" next to each condition below that has been met:**
 - The child has been in the care of the Department of licensed agency for a period of one year, or if the child has come into care as an infant, a period of 6 months, or there is a history of previous placement(s) of this child; **OR**
 - There is a history of neglect, abuse, or lack of care of the child or other children by Respondent; **OR**
 - Respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration; **OR**
 - Respondent is not able or willing to assume promptly legal and physical custody of the child, and to pay for the child's support, in accordance with Respondent's financial means; **OR**
 - Failure to grant the Petition for Permanent Guardianship will result in continued emotional instability or physical risk to the child.
 - b. If a relative or guardian is seeking permanent guardianship:
 - The child has resided in the home of the relative or guardian for a period of at least 1 year, or in the case of an infant, a period of 6 months; **AND**
 - Respondent is incapable of discharging parental responsibilities, and there appears to be little likelihood that Respondent will be able to discharge such parental responsibilities in the near future.

7. Respondent's parental rights over a sibling (brother, sister, half-brother, half-sister) of the child who is the subject of the Petition have been involuntarily terminated in a prior proceeding.
8. The parent has subjected a child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.
9. A child has suffered unexplained serious physical injury, near death or death under such circumstances as would indicate that such injuries, near death or death resulted from the intentional or reckless conduct or willful neglect of the parent.