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Hearing Date: 5/28/21  
Hearing Time: 4pm  
Judge/Calendar: ex parte

E-FILED  
THURSTON COUNTY, WA  
SUPERIOR COURT  
05/28/2021 11:07:13 AM  
Linda Myhre Enlow  
Thurston County Clerk

21-4-00443-34  
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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF Thurston

In the Guardianship of, Case No.: 21-4-00443-34  
Hazel, Onawa, and Raven Smith-Wells  
Respondents, **Cover Sheet: Emergency Petition  
Previously Filed**

Please find the attached: Previously filed emergency petition for guardianship for reference.

Dated this 28th day of May, 2021

BRECKAN LAW PLLC

By: Breckan Scott-Gabriel, WSBA 41585  
Attorney for Petitioner

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E-FILED  
THURSTON COUNTY, WA  
SUPERIOR COURT  
05/27/2021 9:16:56 AM  
Linda Myhre Enlow  
Thurston County Clerk

Hearing Date: 5/28/21  
Hearing Time: 9am  
Judge/Calendar: Ex parte

Superior Court of Washington, County of Thurston

In the Guardianship of:  
Hazel Belle Ursa Smith  
Onawa Kachina Smith-Wells  
Raven Gaia Shenandoah Smith-Wells

Respondent/s (*minors/children*)

No. 21-4-00443-34

Emergency Minor Guardianship Petition  
(PTAPEMG)

Clerk's action required: 5, 23

**Emergency Minor Guardianship Petition**

Use this form to appoint an emergency guardian by agreement, or if no one is willing and has authority to act in the circumstances. A child or an interested party may file the petition. Use this form together with:

- Notice of Hearing for Emergency Minor Guardianship Petition (form GDN M 201)
- Criminal History Cover Sheet (form GDN M 407)
- Motion and Order to DCYF to Release CPS Information (form GDN M 404 and form GDN M 405).

If needed:

- Motion for Immediate Order (Ex Parte) – Emergency Minor Guardianship and Restraining Order (form GDN M 204)
- Immediate Order (Ex Parte) and Hearing Notice – Emergency Minor Guardianship and Restraining Order (form GDN M 205)

Emergency guardianships normally only last 60 days. If you need the guardianship to last longer than 60 days, you should also file a Minor Guardianship Petition (form GDN M 102).

**1. Emergency guardianship request**

I ask the court to appoint an emergency guardian for the children (*under age 18*) listed in Section 2 who have the same legal parents.

**2. Children**

Child's Name	Age	Child's Name	Age
1. Hazel Belle Ursa Smith	8	2. Raven Gaia Shenandoah Smith-Wells	1
3. Onawa Kachina Smith-Wells	3	4.	

**Important!** Don't list more than one child unless they have all the same parents. If they have

different parents, fill out a separate Petition for each child.

**County** – I am filing in this county because (check all that apply):

the children live here or are present in this county now.

there is another case involving custody or parental rights already in progress here.

**Lawyer for children** – The children (check one):

do not have a lawyer

are represented by (lawyer's name): \_\_\_\_\_

Lawyer's address: \_\_\_\_\_

**3. Petitioner/s**

My name is: Hans Stoker

I am the child seeking a guardian.

I am interested in the welfare of the children. My relationship to the children  
in this case: Grandparent

My home address (principal residence): 6945 76th Ave NE

Olympia, WA 98516

My street address (if different): \_\_\_\_\_

**Co-Petitioner** (if there is another Petitioner in this case)

My name is: Kathryn Stoker. I am interested in the welfare of the children.

My relationship to the children in this case: Same as Petitioner

My home address (principal residence): Same as Petitioner

My street address (if different): \_\_\_\_\_

**4. Who should be emergency guardian?**

I ask the court to appoint me (and any Co-Petitioner) emergency guardian of the children.

I ask the court to appoint (name/s): \_\_\_\_\_  
emergency guardian of the children.

Proposed guardian's address: \_\_\_\_\_

**5. Other guardianship cases**

None

A Minor Guardianship Petition or Standby Guardianship Petition has already been filed in this county in case number: \_\_\_\_\_, I ask for the emergency guardianship order to last until final orders are entered in that case.

*Clerk's action required. Relate (link) the minor guardianship case with this case.*

6. Why do the children need an emergency guardian?

Appointment of an emergency guardian is likely to prevent substantial harm to the children's health, safety, or welfare AND no one else appears to have the authority and willingness to act in the current circumstances.

Explain the risk of harm: Fathers (x2) are homeless/unable to locate and/or incarcerated. Mother has severe history of mental illness and domestic violence. Mother was residing with children at Petitioners' residence/property wherein Petitioners either provided sole care for child/ren (when Mother frequently "ran away" during mental health episodes or provided substantial/most of the care for the children (when Mother also present, and during short durations where one of the Fathers also resided with Petitioners/on the property). November 2020 Mother had a mental break and left with all 3 children - residing in shelters across US. March 2021 Mother returns, gets old RV and takes off with kids again. April 2021: CPS in New Jersey contacted Petitioners after children found alone in a motel, in squalid conditions. Mother fled before CPS workers could (Attach additional pages if necessary) respond. Mother/children located today in Portland,

OR living out of the RV. Children at immediate risk of harm because of Mother's history of flight risk and removing children from oversight of authorities and family members. Mother's mental illness makes her unable to recognize what is in either the children or her own best interests and thus makes her incapable of protecting those interests - leading her to neglect their basic needs, as well as the special needs of one the children who is autistic and in whom Petitioners noted severe regression in March. One of the children also has a deep root cavity that has not been treated - Petitioners arrange for and ensure that the health and other needs of the children are met. Importantly, Hazel has autism and is not in school or getting any autism therapy - which is likely to cause irreparable developmental harm.

*(Attach additional pages if necessary)*

> People

7. Parents

All parental rights have been terminated.

The children's legal parents are listed below:

Parent 1 (Name): Selena

Parent 1 is deceased.

Parent 1 has a lawyer.

Lawyer's name: \_\_\_\_\_

Lawyer's address: \_\_\_\_\_

Parent 2 (Name): Robert Ayers (Hazel) and Jim Wells (Onawa and Raven)

Parent 2 is deceased.

Parent 2 has a lawyer.

Lawyer's name: \_\_\_\_\_

Lawyer's address: \_\_\_\_\_

**8. Who must be served?**

I will have a copy of this *Petition* and the *Notice of Hearing for Emergency Minor Guardianship Petition* served on the parents and anyone who fits one of the categories below. (Check all that apply)

Someone other than a parent has custody or care of the children  
(Name): \_\_\_\_\_

One or more of the children is age 12 or older  
(Name/s): \_\_\_\_\_

Any court-appointed lawyer for a parent or the children

No one fits the categories above

**9. Addresses attached to Notice of Hearing**

I have included addresses for the people in section 6 and 7, if known, on the *Notice of Hearing for Emergency Minor Guardianship Petition and Notice Attachment: List of People to be Served or Given Notice*. The *Notice* and *Attachment* are made part of this petition (incorporated by reference).

**Jurisdiction**

**10. Personal jurisdiction over parents**

Fill out below to say if a Washington State court has personal jurisdiction (authority to make decisions) over each parent.

Basis for Personal Jurisdiction (check all that apply)	Parent 1 Name: <u>Selena</u>	Parent 2 Name: <u>Robert Jim</u>
Will be served in Washington	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lives in Washington now	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lived in Washington with child	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Lived in Washington and paid pregnancy costs or support for child	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Caused child to live in Washington	<input checked="" type="checkbox"/>	x <input checked="" type="checkbox"/>
Had sex in Washington that may have produced the child	<input checked="" type="checkbox"/>	x <input checked="" type="checkbox"/>
Agrees to Washington deciding	<input type="checkbox"/>	<input type="checkbox"/>
None of the above	<input type="checkbox"/>	<input type="checkbox"/>

**11. Children's home/s**

During the past 5 years have any of the children lived:

- on an Indian reservation,
- outside Washington state,
- in a foreign country, or
- with anyone other than a parent?

No. (Skip to 11.)

Yes. (Fill out below to show where each child has lived during the last 5 years.)

Dates	Children	Lived with	In which state, Indian reservation, or foreign country
From: 2016 To: 2017	<input type="checkbox"/> All children <input type="checkbox"/> (Name/s): Hazel	<input type="checkbox"/> Petitioner/s <input checked="" type="checkbox"/> Parent/s (name/s): Mother <input type="checkbox"/> Other (name):	Colorado
From: 2017 To: Sep. 2020	<input checked="" type="checkbox"/> All children <input type="checkbox"/> (Name/s):	<input checked="" type="checkbox"/> Petitioner/s <input type="checkbox"/> Parent/s (name/s): <input type="checkbox"/> Other (name):	Washington
From: Nov 2020 To: Present	<input checked="" type="checkbox"/> All children <input type="checkbox"/> (Name/s):	<input type="checkbox"/> Petitioner/s <input checked="" type="checkbox"/> Parent/s (name/s): Mother <input type="checkbox"/> Other (name):	Transient: NJ, Portland, OR
From: To:	<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):	<input type="checkbox"/> Petitioner/s <input type="checkbox"/> Parent/s (name/s): <input type="checkbox"/> Other (name):	
From: To:	<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):	<input type="checkbox"/> Petitioner/s <input type="checkbox"/> Parent/s (name/s): <input type="checkbox"/> Other (name):	

**12. Other people with a legal right to spend time with a child**

Do you know of anyone besides you and the parents who has, or claims to have, a legal right to spend time with any of these children?

(Check one):  No. (Skip to 12.)  Yes. (Fill out below.)

Name of person	Children this person may have the right to spend time with
	<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):
	<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):

**13. Other court cases involving a child**

Do you know of any court cases involving any of these children?

(Check one):  No. (Skip to 13.)  Yes. (Fill out below.)

Kind of case (Family Law, Criminal, Protection Order, Juvenile, Dependency, Other)	County and State	Case number and year	Children
			<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):
			<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):
			<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):
			<input type="checkbox"/> All children <input type="checkbox"/> (Name/s):

**14. Are any of the children Indian children?**

(An Indian child is a child who is a member of an Indian tribe, or who is the biological child of an Indian tribe member and eligible for membership. You must try to find out if any child in this case is an Indian child. If so, the federal and state Indian Child Welfare Acts will apply to your case.)

Check all that apply:

No.

None of the children are Indian children.

These children are not Indian children (name/s): \_\_\_\_\_

I know this because: \_\_\_\_\_

\_\_\_\_\_

Yes. These children are Indian children:

Children	Tribe
<input type="checkbox"/> All children <input type="checkbox"/> (name/s):	
<input type="checkbox"/> All children <input type="checkbox"/> (name/s):	

I will provide the *Indian Child Welfare Act Notice* (form GDN M 401) and a copy of this *Petition* to the tribe/s named above and other necessary people or agencies.

Maybe. These children may be eligible for membership in these tribes:

Children	Tribe
<input type="checkbox"/> All children	
<input type="checkbox"/> (name/s):	
<input type="checkbox"/> All children	
<input type="checkbox"/> (name/s):	

I will provide the *Indian Child Welfare Act Notice* (form GDN M 401) and a copy of this *Petition* to the tribe/s named above (and other necessary people or agencies) to find out whether any of the children are eligible for membership.

- I do not know if any of the children are Indian children. I have done the following things to try to find out:

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**15. Jurisdiction over Indian children**

- Does not apply. None of the children are Indian children.
- A state court can decide this case for the Indian children because:
- (Children's names): \_\_\_\_\_ are not domiciled or living on an Indian reservation, and are not wards of a tribal court. (25 USC §1911)
  - (Children's names): \_\_\_\_\_ are domiciled or living on an Indian reservation, and (check all that apply):
  - The children's tribe agrees to Washington State's concurrent jurisdiction.
  - The children's tribe decided not to use its exclusive jurisdiction (expressly declined). (RCW 13.38.060)
  - Washington State should claim emergency jurisdiction for children temporarily located off the reservation to protect the children from immediate physical damage or harm. (RCW 13.38.140)

**16. Jurisdiction over the children (RCW 26.27.201 – .221, .231, .261, .271)**

This Court can decide this case for the children because (check all that apply; if a box applies to all of the children, you may write "the children" instead of listing names):

- Exclusive, continuing jurisdiction** – A Washington court has already made a custody order or parenting plan for the children, and the court still has authority to make other orders for (children's names): \_\_\_\_\_
- Home state jurisdiction** – Washington is the children's home state because (check all that apply):
  - (Children's names): \_\_\_\_\_ lived in Washington with a parent, or someone acting as a parent, for at least the six months just before this case was filed, or if the children are less than six months old, they have lived in Washington with a parent, or someone acting as a parent, since birth.



There were times the children were not in Washington in the six months just before this case was filed (or since birth if they are less than six months old), but those were temporary absences.

(Children's names): all children do not live in Washington right now, but Washington was the children's home state sometime in the six months just before this case was filed, and a parent, or someone acting as a parent of the children, still lives in Washington.

(Children's names): all children do not have another home state.

**No home state or home state declined** – No court of any other state (or tribe) has the jurisdiction to make decisions for (children's names): all children or a court in the children's home state (or tribe) decided it is better to have this case in Washington and:

- The children and a parent, or someone acting as a parent, have ties to Washington beyond just living here; and
- There is a lot of information (substantial evidence) about the children's care, protection, education, and relationships in this state.

**Other state declined** – The courts in other states (or tribes) that might be (children's names): \_\_\_\_\_'s home state have refused to take this case because it is better to have this case in Washington.

**Temporary emergency jurisdiction** – The court can make decisions for (children's names): \_\_\_\_\_ because the children are in this state now and were abandoned here or need emergency protection because the children (or the children's parent, brother, or sister) were abused or threatened with abuse. (Check one):

A custody case involving the children was filed in the children's home state (name of state or tribe): \_\_\_\_\_. Washington should take temporary emergency jurisdiction over the children until the petitioner can get a court order from the children's home state (or tribe).

There is no valid custody order or open custody case in the children's home state (name of state or tribe): \_\_\_\_\_. If no case is filed in the children's home state (or tribe) by the time the children have been in Washington for six months, (date): \_\_\_\_\_, Washington should have final jurisdiction over the children.

Other reason (specify): \_\_\_\_\_

## ➤ Additional Requests

### 17. Parents' visitation

I ask the court to order the following contact or visitation between the parents and children:  
Supervised visitation only until such time as Selena is properly evaluated/treated for her mental health issues. Supervised visitation should be done at a professional supervisor's location due to Selena's prior domestic violence against Petitioners and the risk of her absconding with the children.

I ask for this because (explain why) \_\_\_\_\_

**18. Decision-making authority**

I ask the court to make the following orders about who has the right to make decisions for the children:

Type of Major Decision	Guardian Decides	Parent/s Decide <i>(write one parent's name or "both")</i>
School / educational	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Health care (not emergency)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Authority to apply for passport and travel internationally	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Driver's license or State I.D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>

**19. Access to records**

I ask the court to make the following orders about who has the right to access these types of records for the children:

Type of Record	Guardian Can Access	Parent/s Can Access <i>(write one parent's name or "both")</i>
School / educational	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Health care	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>

Other: \_\_\_\_\_

**20. Child support**

The children have a right to child support (including medical support) from the legal parents according to state law. The emergency guardian may ask the Division of Child Support or the court to order temporary child support.

**Support** -- I ask the court to order the parents to *(check all that apply)*:

- pay child support according to the *Child Support Schedule Worksheets*.
- provide and keep health insurance for the children.
- pay children's day care, uninsured medical, or other expenses.
- no request.

**Tax Issues** -- I ask the court to order:

- Petitioners have the right to claim the children as dependents for purposes of personal tax exemptions and associated tax credits on our tax forms.

*(other)*: \_\_\_\_\_

**21. Protection Order**

Do you want the court to issue an *Order for Protection*?

**No.** I do not want an *Order for Protection*.

**Yes.** (You must file a *Petition for Order for Protection*, form DV-1.015 for domestic violence, or form UHST-02.0200 for harassment. You must file your *Petition for Order for Protection* as a *separate case*. Ask the court clerk to relate (link) the protection order case together with this emergency guardianship case.)

**Important!** If you need protection now, ask the court clerk about getting a *Temporary Order for Protection*.

There already is an *Order for Protection* between (name): \_\_\_\_\_ and me.

Court that issued the order: \_\_\_\_\_

Case number: \_\_\_\_\_

Expiration date: \_\_\_\_\_

**22. Temporary Restraining Order**

Do you want the court to issue a *Temporary Restraining Order*?

**No.** (Skip to 22.)

**Yes.** Check the type of orders you want:

**Do not disturb** – Order (name/s) \_\_\_\_\_ not to disturb my peace or the peace of any child listed in 1.

**Stay away** – Order (name/s) \_\_\_\_\_ not to go onto the grounds of or enter my home, workplace, or school, and the daycare or school of any child listed in 1.

Also, not knowingly to go or stay within \_\_\_\_\_ feet of my home, workplace, or school, or the daycare or school of any child listed in 1.

**Important!** Violation of a *Temporary Restraining Order* in a guardianship case is not a crime and may not be enforced by law enforcement. It can be enforced through the civil contempt process in court.

**23. Fees and costs**

**Filing Fee** – In some situations, the court will not charge a fee for filing this case.  
 Relatives will not be charged a filing fee.  
 Non-relatives who have low income can ask the court to waive the fee. (Use forms GR 34.0100, 34.0300, and 34.0500).

No request.

No fee shall be charged because the proposed guardian is a relative of the children, not a professional guardian.

Order who should pay for court costs, Guardian ad Litem fees, Court Visitor fees, lawyer fees, and other reasonable fees.

**24. Other requests, if any**

Order that once the children are located, that they be placed with Petitioners immediately.

**Petitioner fills out below:**

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form (including any attachments) are true.   I have attached (#): \_\_\_\_\_ pages.

Signed at (city and state): Olympia Washington Date: 5/17/2021

*Hans Stoker*  
Hans Stoker (May 17, 2021 10:10 PM) \_\_\_\_\_ Hans Stoker  
Petitioner signs here \_\_\_\_\_ Print name

**Co-Petitioner (if any) fills out below:**

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at (city and state): Olympia, WA Date: 05/17/2021

*Kat Stoker*  
Kat Stoker (May 17, 2021 10:21 PM) \_\_\_\_\_ Kathryn Stoker  
Other Petitioner signs here \_\_\_\_\_ Print name

**Petitioner's lawyer (if any) fills out below:**

*Breckan Scott-Gabriel* \_\_\_\_\_ Breckan Scott-Gabriel, 41585 \_\_\_\_\_ 5/14/21  
Petitioner's lawyer signs here \_\_\_\_\_ Print name and WSBA No. \_\_\_\_\_ Date









# GDN M 202 Emergency Minor Guardianship Petition\_2021 01 01

Final Audit Report

2021-05-17

Created:	2021-05-17
By:	Breckan Scott-Gabriel (breckan@breckanlaw.com)
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-  Document created by Breckan Scott-Gabriel (breckan@breckanlaw.com)  
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-  Document emailed to Hans Stoker (hans-stoker@comcast.net) for signature  
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