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Hearing is Set: 9/14/21/9am Thomas
X EXPEDITE

E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT
09/10/2021 10:59:41 AM
Linda Myhre Enlow
Thurston County Clerk

21-4-00577-34
PROR 25
Proposed Order Findings
11000920



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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
COUNTY OF THURSTON

In re guardianship of:

Case No.: 21-4-00577-34

Hazel Smith.

**Cover:
Proposed Orders**

Attached hereto please find Petitioner's Proposed Orders for the 9/14/21 Review
Hearing:
Emergency Minor Guardianship Order through 11/5/21 (21-4-00577-34);
Order Appointing GAL/Court Visitor (21-4-00577-34).

Dated this 10th day of September, 2021.

BRECKAN LAW PLLC

By: Breckan Scott-Gabriel, WSBA 41585
Petitioners' Counsel

**Cover:
Proposed Orders**

Superior Court of Washington, County of Thurston

In the Guardianship of:

Hazel Smith

Respondent/s (*minors/children*)

No. 21-4-00577-34

Order on Emergency Minor
Guardianship Petition

Granted (ORAPEMG)

Denied (ORDYMT)

Clerk's action required: 1, 9, 10

Order on Emergency Minor Guardianship Petition

1. Guardianship Summary

Does not apply. The *Emergency Minor Guardianship Petition* is denied.

Summarize the guardianship order below:

Date guardian appointed:		Next review date, if any:	
Children			
Child's Name	Letters Expire	Child's Name	Letters Expire
1. Hazel	11/5/21	2.	
3.		4.	
Guardian/s			
Name	Kathryn and Hans Stoker		
Address	6945 76th Ave NE Olympia, WA 98516		
Phone	360-790-5409/360-790-9529		
Email	kat-stoker@comcast.net/hans-stoker@comcast.net		
Type / Training	<input checked="" type="checkbox"/> Non-professional (Lay guardian). Training (<i>section 11</i>): <input type="checkbox"/> completed <input checked="" type="checkbox"/> required <input type="checkbox"/> Certified professional guardian (CPG) <input type="checkbox"/> Public professional guardian (PUG)		

Limited / Full	The guardianship is (check one): <input type="checkbox"/> limited <input checked="" type="checkbox"/> full (If a parent of the child has any visitation or decision-making authority, the guardianship is limited. See sections 12 and 14.)	
	Parent 1	Parent 2
Name	Selena Smith	Robert Ayers
Address	PO Box 1711 Shelton, WA 98584	Unknown - last known to be in Boulder County, CO
Phone	360-359-2410	
Email	doublekachina1819@protonmail.com	

2. Children

The (check one): Court Minor Person interested in the minor's welfare
(name): Kathryn and Hans Stoker requested that an emergency guardian be appointed for the children listed in 1.

➤ **Findings**

A hearing was held on the *Emergency Minor Guardianship Petition*. The court considered the petition, any objection, supporting documents, and any other evidence in the record, including _____

3. Basis for Emergency Guardianship

The petition should be:

Denied because _____

Approved. The court finds that appointment of an emergency guardian is likely to prevent substantial harm to the minor's health, safety, or welfare, and no other person appears to have authority and willingness to act in the circumstances.

The approval is based on the following facts: Mother is unable to exercise parenting functions and has been restrained from contacting H.S. or O.S.W (See Case No. 21-4-0578-34) due to pending criminal charges stemming from an incident on 7/17/21, including assault of H.S.

4. 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. Indian Child Welfare Act, 25 USC 1903.)

None of the children are Indian children. The state and federal *Indian Child Welfare Acts* do not apply to this case.

These children are or may be Indian children (name/s): _____
_____. The federal and state *Indian Child Welfare Acts* apply to this case.

Jurisdiction – The court has does **not** have jurisdiction over the Indian children.

Notice to tribes – The Petitioner (*check one*):

provided the *Indian Child Welfare Act Notice* (GDN M 401) and a copy of the *Petition* to all of the tribes, people, and agencies entitled to notice.

did **not** provide the *Indian Child Welfare Act Notice* and a copy of the *Petition* to all of the tribes, people, and agencies entitled to notice.

Order – Petitioners must provide the *Indian Child Welfare Act Notice* (form GDN M 401) and a copy of the *Petition* to the:

children’s tribes or possible tribes

Indian custodian

children’s parents

Bureau of Indian Affairs

The court does not have enough information to decide whether any of the children are Indian children.

Order – Petitioners must make a good faith effort to find out if any of the children are Indian children and provide the *Indian Child Welfare Act Notice* (GDN M 401) and a copy of the *Petition* to all of the tribes, people, or agencies entitled to notice. Good faith efforts are defined in RCW 13.38.050.

5. Jurisdiction Over the Children

This court **cannot** decide this case for these children (*names*): _____ because this court does not have jurisdiction over them. The *Petition* should be dismissed as to these children.

This court **can** decide this case for these 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 parenting plan, residential schedule, or custody order 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 6 months just before this case was filed or, if the children were less than 6 months old when the case was filed, they had 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 6 months just before this case was filed (or since birth if they were less than 6 months old), but those were temporary absences.

(*Children’s names*): _____ do not live in Washington right now, but Washington was the children’s home state sometime in the 6 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*): _____ 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*): _____

_____ 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*): Colorado's home state have refused to take this case because it is better to have this case in Washington.

Temporary emergency jurisdiction – Washington had temporary emergency jurisdiction over (*children's names*): _____ when the case was filed, and now has jurisdiction to make a final custody decision because:

- When the case was filed, the children were abandoned in this state, or the children were in this state and the children (or children's parent, brother or sister) was abused or threatened with abuse;
- The court signed a temporary order on (date) _____ saying that Washington's jurisdiction will become final if no case is filed in the children's home state (or tribe) by the time the children have been in Washington for _____ months;
- The children have now lived in Washington for 6 months; **and**
- No case concerning the children has been started in the children's home state (or tribe).

Other reason (*specify*): _____

6. Background Records Checked

The Court has (unless stated otherwise below):

- Checked the judicial information system for any information or proceedings relevant to placement of the children;
- Reviewed records from the Department of Children, Youth, and Families provided in response to the court's *Order to DCYF to Release CPS Information*; and
- Reviewed the criminal history record from the Washington State Patrol for the Guardian and each adult living in the Guardian's home.

The court did not check background records because the Petition is denied.

Other findings (*specify*): _____

7. Service Members' Relief Acts (Active Duty Military)

(The **federal** Servicemembers Civil Relief Act covers:

- Army, Navy, Air Force, Marine Corps, and Coast Guard members on active duty;
- National Guard or Reserve members under a call to active service for more than 30 days in a row; and
- commissioned corps of the Public Health Service and NOAA.

The **state** Service Members' Civil Relief Act covers those service members listed above who are either stationed in or residents of Washington State, and their dependents, except for the commissioned corps of the Public Health Service and NOAA.)

(Name/s): the parties are **not** covered by the state or federal Service Members' Civil Relief Acts, and the acts do not apply to this proceeding.

(Name/s): _____ are covered by the state or federal Service Members' Civil Relief Acts, and the acts do apply to this proceeding.

The court signed the *Order re Service Members Civil Relief Act* (form FL All Family 170) filed separately.

The requirements of the act(s) have been met as follows:

The court does not have enough information to find whether (name/s): _____ are covered by the state or federal *Service Members' Civil Relief Acts*.

8. Limits on Guardian's Authority

Does not apply. The Petition should be denied.

No limits should be put on the guardian's authority over the children's upbringing or decision-making for the children.

The guardian should share decision-making authority and access to records with parent/s and/or children as ordered in section number **9** and **10** below because:

Other findings: _____

➤ **The Court Orders**

9. Emergency Guardianship

Denied: The emergency guardianship petition is denied and the case is dismissed.

Return Children. The children must be returned to (name): _____
_____ by (date): _____ at (time): _____

as follows: _____

Skip sections 10 through 15 if the petition is denied.

Approved: An emergency guardianship is approved for the following children:

Hazel Smith

(Name/s) Kathryn and Hans Stoker is/are appointed as emergency guardian of the children listed above. The children shall live with the emergency guardian.

The Emergency Minor Guardianship is:

Limited. The limitations on the emergency guardian's authority are listed in sections **10** and **12**.

Full. Parents have no visitation or decision-making authority.

To the clerk: Issue letters. Once the guardian files an acceptance of appointment, the clerk of the court shall issue *Letters of Guardianship* for the children which remain valid until the expiration date listed in the **Guardianship Summary** in section **1**.

10. Duration of Guardianship

Emergency only. The emergency guardianship will expire on (date) 11/5/21, no later than 60 days from the date of this order.

Consolidated. The emergency guardianship is ordered until a final hearing is held on the *Minor Guardianship Petition* (RCW 11.130.190) or *Standby Minor Guardianship Petition* (RCW 11.130.220). This case, and the already filed Minor Guardianship case number _____, shall be consolidated into the Minor Guardianship case.

Letters of Guardianship will be issued for 60 days until (date) _____.

Letters of Guardianship will be issued until the hearing. The scheduled hearing date is _____.

To the Clerk: Consolidate the Emergency Minor Guardianship case into the Minor Guardianship Case.

11. Lay Guardian Training

Complete at <https://www.courts.wa.gov/guardianportal/index.cfm?fa=guardianportal.title11minor>

Does not apply. The guardian is a certified professional guardian.

The guardian provided proof of completion of lay guardian training.

The guardian must file proof of completion of lay guardian training within 90 days.

The lay guardian training is waived.

12. Guardian's Authority

The guardian/s have the right to make decisions and determine the children's upbringing, including their education, healthcare, and religious training, unless limited below.

Type of Major Decision	Guardian Decides	Parent/s Decide (write name or "both parents")	Child Decides (write name/s or "all children")
School / educational	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Healthcare (not emergency)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Authority to apply for passport and travel internationally:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Driver's license or State I.D.:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other: _____

If a parent or child retains any decision-making authority, then the guardianship is limited.

13. Access to Records

The following people have the right to access records (children may have the right to control access to records under other laws):

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"/>
Healthcare	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>
Other:	<input type="checkbox"/>	<input type="checkbox"/>

Other: _____

14. Parents' Visitation

The parents' visitation shall be as follows: None

If a parent has visitation rights, then the guardianship is limited.

15. Relocation Order

Guardians are subject to the notice requirements of RCW 26.09.430 through RCW 26.09.490 when moving with children involved in this action. See **FL Relocate 736** for a summary of the law about moving with the children.

16. Support, Insurance, and Taxes

The court is not issuing an order about support, health insurance, or taxes at this time.

Child Support – The court signed the final Child Support Order and Worksheets filed separately today or on (date): _____.

Health Insurance or other expenses -The parents must pay for health insurance, uninsured medical, daycare, or other necessary expenses (check one):

as listed on the final Child Support Order.

as follows (*specify*): _____.

Tax Issues – The parties have the right to claim the children as their dependents for purposes of personal tax exemptions and associated tax credits on their tax forms as follows:

as listed on the Child Support Order.

the appointed guardian may claim the children.

other (specify): _____

Other: _____

17. Temporary Restraining Order

No one requested a Temporary Restraining Order in this case.

Denied – The request for a Temporary Restraining Order is denied.

Approved – The request for a Temporary Restraining Order is approved.

Do not disturb – (name/s) _____ must not disturb the peace of _____.

Stay away – (name/s) _____ must not go onto the grounds of or enter the home, workplace, or school, or the daycare or school of any person or child listed here _____.

Also, (name/s) _____ must not knowingly go or stay within _____ feet of home, workplace, or school, or the daycare or school of any person or child listed here _____.

Other temporary restraining orders: _____

Warning! Violation of this order may result in financial penalties or contempt of court.

18. Guardian ad Litem/ Court Visitor

Does not apply.

(Name) _____ is appointed Guardian ad Litem or Court Visitor in the consolidated Minor Guardianship or Standby Minor Guardianship case.

The GAL or CV is discharged and fees and costs are approved as reasonable in the total amount of \$_____. They shall be paid from the county, split between the parties as follows: _____

Other (specify): The Court will enter a separate Order appointing a Court Visitor.

19. Other orders (if any)

Date

▶

Judge or Commissioner

Parties or their lawyers fill out below:

Presented by:



Signature of Party/Lawyer

Breckan Scott, 41585

Print Name

WSBA No.

Copy received and approved by:

Signature of Party/Lawyer

Mike DeWitt

Print Name

WSBA No.

Signature of Party/Lawyer

Print Name

WSBA No.

Signature of GAL or Visitor

Print Name

Superior Court of Washington, County of Thurston

In the Guardianship of:

Hazel Smith
Respondent/s (*minors/children*)

No. 21-4-0577-34

Order Appointing Guardian ad Litem or
Court Visitor

GAL Appointed (ORAPGL)

Visitor Appointed (ORAPCV)

Clerks Action: 10

Order Appointing Guardian ad Litem or Court Visitor

Use this form to appoint a GAL or Court Visitor in a Minor Guardianship Case.

1. Children needing Guardian ad Litem (GAL) or Court Visitor (Visitor)

A GAL or Visitor should be appointed in this case. The children are listed below:

Child's name	Age	Child's name	Age
1. Hazel Smith	8	2.	
3.		4.	

2. The court has authority to make this appointment under the *Uniform Guardianship Act 11.130*.

The court **must** appoint a Visitor because: (*check all that apply*)

one or more of the children is 12 or older and does **not** have a lawyer.

the petitioner says a parent waived their right to notice.

the petitioner says they were unable to serve a parent.

The court should appoint a GAL because the children's interest otherwise would not be adequately represented.

The court orders:

3. (GAL / Visitor's name): _____ is appointed
 Guardian ad Litem Court Visitor in this case.

4. Rights

All parties must serve the GAL or Visitor with:

- notice of any court hearing or proposed agreement involving these children, and
- copies of all documents they file in this case.

The court clerk must give the GAL or Visitor free certified copies of this *Order* upon request.

5. Court Visitor's duties

- Does not apply.
- A GAL shall perform the duties of a Visitor until the Visitor program is established.
- The Visitor must go to all court hearings and pretrial conferences for this case that are related to the children, unless the court says otherwise.

The Visitor is ordered to investigate and file a report on the issues checked below. *(check all that apply):*

- Meet with the minor/s and explain the rights outlined in the *Notice of Hearing*. Find out the children's views about the guardianship or guardian. Inform the court if the minor wants access to all documents filed in this case.
- Decide if a parent who was not served can be located with reasonable effort.
- Interview the petitioner and the minor.
- Confirm whether a parent consents to guardianship.
- Other issues about the standby guardian petition.
- Other: _____

6. GAL's duties

- Does not apply.
- The Guardian ad Litem's (GAL's) duties include:
 - Inform the court about, and represent, the needs and best interests of the children.
 - Protect the legal interests of the children in this case;
 - Explain (to the extent possible) the legal papers and correspondence related to this case to the children;
 - Participate in court hearings related to the GAL's duties through written reports and supplemental oral reports; and
 - Follow all court orders and go to all meetings and court hearings related to the GAL's duties or scope of appointment.
- Other *(specify)*: _____

7. Report

The GAL/Visitor's report must include facts about the issues listed in **5** or **6** above.

Deadline! Unless the court extends the deadline, the report must be filed and served on all parties at least 10 days prior to any hearing requiring a report.

8. Access to the children and information

The GAL/Visitor is allowed reasonable access to the children, and to all records and people with information that affects the children, including:

- Child care providers
- Physical and mental health care providers
- Schools and other educational institutions
- Law enforcement agencies, Child Protective Services, and the Department of Children, Youth, and Family (or equivalent agencies, if outside Washington)

Note: agencies may withhold or black out legally protected parts of requested information.

9. Release of information

The signatures of parties or children age 12 or older below mean that they give permission to the agencies and professionals listed in 8 above to share information about themselves and their children with the GAL/Visitor.

10. Confidentiality

The GAL/Visitor will:

- Have access to all Superior Court and Juvenile Court files related to his/her duties, including sealed and confidential documents. *Exception:* The GAL/Visitor will not have access to information sealed under RCW 13.50.050(7);
- Keep confidential any sealed and confidential information (unless his or her duties as GAL/Visitor require otherwise); and
- Tell the court if his/her report includes any sealed or confidential information.

The parties (or their lawyers, if any) have the right to inspect and copy the GAL/Visitor file, including the names and addresses of everyone the GAL/Visitor consulted. *Exception:* information in the GAL/Visitor's file that is confidential by law or sealed by a court shall **not** be shared with the parties or their lawyers.

11. Fees

The GAL/Visitor's hourly fee is \$ _____. The GAL/Visitor may not charge more than a total of \$ _____ without court review and approval.

The GAL/Visitor's fees will be paid as follows (*check one*):

- _____ % paid by Petitioner _____
- _____ % paid by Parent _____
- _____ % paid by Parent _____

_____ % or \$ _____ paid by the County at public expense. However, if the parties' financial circumstances change, the court may order the parties to pay the fees according to their ability to pay.

Other: _____

Billing Process:

- The GAL must file an itemized statement of time and expenses with the court and provide a copy to the person/s or entity responsible for payment.

- The GAL may file any request for payment with the court, along with an itemized statement and a proposed order.

12. Other orders (if any):

Ordered.

Date

Judge or Commissioner

Petitioner and Respondent or their lawyers fill out below:

A party's signature authorizes release of information as described in 9 above.

Presented by:

_____	Breckan Scott, 41585
<i>Signature of Party/Lawyer</i>	<i>Printed Name</i>
	<i>WSBA No.</i>

Copy received and approved by:

_____	Mike DeWitt
<i>Signature of Parent /Attorney</i>	<i>Printed Name</i>

_____	_____
<i>Signature of Parent</i>	<i>Printed Name</i>

Children age 12 or older sign below to authorize release of information as described in 8:

_____	_____	_____
<i>Child signs here</i>	<i>Print name</i>	<i>Date</i>

_____	_____	_____
<i>Other child signs here</i>	<i>Print name</i>	<i>Date</i>

Guardian ad Litem/ Court Visitor signs below to accept appointment:

_____	_____	_____
<i>GAL/Visitor signs here</i>	<i>Print name</i>	<i>Date</i>