

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

In the Matter of the Guardianship of	:	
T. A. H.,	:	No. 11AP-395
(M. A. H.,	:	(Prob. No. 536788)
	:	(REGULAR CALENDAR)
Appellant).	:	
In the Matter of the Guardianship of	:	
D. M. H.,	:	No. 11AP-396
(M. A. H.,	:	(Prob. No. 536787)
	:	(REGULAR CALENDAR)
Appellant).	:	
In the Matter of the Guardianship of	:	No. 11AP-397
D. M. H.,	:	(Prob. No. 536790)
(M. A. H.,	:	(REGULAR CALENDAR)
Appellant).	:	

D E C I S I O N

Rendered on November 1, 2011

M.A.H., pro se.

APPEAL from the Franklin County Court of Common Pleas,
Probate Division

TYACK, J.

{¶1} M.A.H. is appealing from a set of orders regarding guardianships for three children he fathered. He assigns a single error for our consideration:

THE PROBATE COURT ABUSED ITS DISCRETION WHEN DENYING APPELLANT OF HIS RIGHT TO ACCESS THE COURT AS PROVIDED BY ARTICLE I, SECTION 16 OF THE OHIO CONSTITUTION AND THE FIRST AMENDMENT TO THE U.S. CONSTITUTION, BIASEDLY AND PREJUDICIALLY DEPRIVING HIM OF EQUAL PROTECTION OF THE LAWS AND THE DUE PROCESS PROTECTIONS OF HIS PARENTAL RIGHTS AS PROVIDED BY THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION

{¶2} M.A.H. has been in custody since March 2008. The mother of M.A.H.'s children died in October 2008. In December 2008, M.A.H. was convicted on a charge of felonious assault and sent to prison.

{¶3} After the mother's death, M.A.H.'s mother began caring for the children, but tension developed between M.A.H. and his mother. This led to the children being cared for by Lynn R. Dean, a family friend.

{¶4} The children are now nine, eight and five years old respectively. The oldest child apparently wants to live in Colorado, where another family friend would care for the child. M.A.H. has resisted that move to Colorado, leading to additional tensions. M.A.H. amplified his resistance by seeking an injunction and/or restraining order to block the move. The Probate Court of Franklin County, Ohio did not grant M.A.H. the relief he sought, in part, because M.A.H. provided no filing fees.

{¶5} Apparently proceedings regarding the children were initiated in the Franklin County Court of Common Pleas, Juvenile Division.

{¶6} On February 4, 2011, the judge of the Franklin County Probate Court terminated the guardianship for two of the three children. As a result, objections M.A.H. filed as to his attempt to obtain an injunction and/or restraining order were dismissed as moot as to those two children. To the extent that M.A.H. is attempting to appeal issues regarding those two children, his younger two children, his appeal is not timely. He needed to appeal the termination of those two guardianships.

{¶7} The appeals in case Nos. 11AP-396 and 11AP-397 are dismissed sua sponte.

{¶8} On May 20, 2011, the judge of the Franklin County Probate Court journalized an order allowing the family friend who had been serving as guardian for the oldest child to resign and dismissing the application of a different family friend to serve as guardian. As a result, the trial court ordered the issues regarding the oldest child to be certified or transferred to the Juvenile Division of the Franklin County Court of Common Pleas.

{¶9} This order certifying the issues regarding the oldest child to the juvenile division renders M.A.H.'s appeal moot. The probate court cannot grant M.A.H. relief, so its earlier insistence that he post a filing fee has no effect.

{¶10} The sole assignment of error in case No. 11AP-395 is found moot.

{¶11} In summary, the appeals in 11AP-396 and 11AP-397 are dismissed. The judgment in case No. 11AP-395 is affirmed as a result of the subsequent court order

transferring the case to the Juvenile Division of the Franklin County Court of Common Pleas which rendered the issue being contested by M.A.H. moot.

*Judgment affirmed in case No.
11AP-395; appeals dismissed in case
Nos. 11AP-396 and 11AP-397.*

BROWN and DORRIAN, JJ., concur.
