Cite as 2011 Ark. App. 409

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA10-789

	Opinion Delivered JUNE 1, 2011
HELEN ELIZABETH VIELE APPELLANT	APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, TWELFTH DIVISION [NO. PGD 2009-1293]
V.	
LACY LEACH CALDWELL APPELLEE	HONORABLE ALICE S. GRAY, JUDGE
	AFFIRMED

ROBIN F. WYNNE, Judge

Helen Viele appeals from the circuit court's denial of her petition to be named guardian of the person and estate of a minor child. Appellant argues that the circuit court erred by continuing the final hearing in this matter, not granting guardianship to appellant, and placing the child with his maternal grandmother. We affirm.

On August 7, 2009, appellant filed a petition for the appointment of guardian of the person and estate of J.C., who is a minor. After a hearing, the circuit court entered an order appointing appellant as the child's temporary guardian. At the final hearing held on January 21, 2010, appellant, who owns a bail bonds business with her husband, testified that she met appellee, who is the child's mother, while writing a bond. Appellant stated that appellee was bouncing from house to house and had been sentenced to prison. Appellee asked appellant

to keep the child, and appellant agreed to do so. Appellant took custody of the child, who was nine months old at the time, on July 13, 2009.

The circuit court continued the hearing, initially for the purpose of appointing counsel for appellee. The court did not appoint counsel for the mother but did appoint an attorney ad litem for the child. Appellant filed an amended petition on February 26, 2010, in which she alleged that no family member from either side of the child's family had sought guardianship or filed any pleading with the court. David Viele, appellant's husband, was also joined as a party to the petition. The remainder of the final hearing was held on March 1, 2010. At the hearing, David Viele testified that appellee asked appellant to keep her child. He stated that he and appellant made an attempt to contact appellee's family but were unsuccessful. According to Mr. Viele, appellee's family had no involvement with the child since the day his wife took custody of J.C. He stated that the couple planned to give the child back to appellee once she was released from incarceration.

Appellant testified that she received a call from appellee's mother the day she got the child and that appellee's mother stated that she was going to get an attorney and file papers to allow her to come pick up the child. Appellant testified that she did not have any other conversations with appellee's mother. Appellant did take the child to see his paternal grandfather, Earl Caldwell. Mr. Caldwell testified that he was comfortable with appellant having guardianship of the child and that he would take the child if the court denied appellant's petition in order to keep the child out of the State's custody. Mr. Caldwell's sister,

Geneva Keller, testified that Mr. Caldwell is handicapped. Ms. Keller also testified that she could not keep the child on her own. Appellant stated that she intended to give the child back if appellee could show that she would take care of him.

Elizabeth Anderson, appellee's mother, testified that, prior to being contacted by the attorney ad litem, she had no notice that there was a guardianship proceeding involving the child. Ms. Anderson testified that she spoke with appellant and made it clear to appellant that she would like to have the child, but appellant told her that appellee did not want her having the child and that appellant was keeping the child. Ms. Anderson admitted that she had neither filed anything with the court nor spoken with her daughter since she had been incarcerated. Ms. Anderson's sister, Nancy Isom, testified that she attempted to get the child the day appellee was sentenced to prison in order to give the child to Ms. Anderson, but appellant got the child before she arrived at the house. On redirect examination, appellant stated that she heard that the child's aunt was coming, so she contacted the jail where appellee was being held. She testified that appellee said she wanted appellant to have the child. Appellee stated at the hearing that she wanted Ms. Anderson to have guardianship of the child and denied ever stating that she did not want her mother to have guardianship. Ms. Isom testified that Ms. Anderson is capable of caring for the child.

On March 30, 2010, the circuit court issued an order in which it denied appellant's guardianship petition, finding that placement with the child's maternal grandmother was a less restrictive alternative than awarding guardianship to appellant. Appellant has now appealed to this court.

We review probate proceedings de novo on the record, but a finding of fact by the circuit court will not be disturbed unless it is clearly erroneous, giving due regard to the opportunity and superior position of the trial judge to determine the credibility of the witnesses. *Fletcher v. Scorza*, 2010 Ark. 64. A finding is clearly erroneous when, despite evidence to support it, we are left on the entire evidence with the firm conviction that a mistake has been committed. *Carr v. Millar*, 86 Ark. App. 292, 184 S.W.3d 470 (2004).

Appellant's first point on appeal is that the circuit court clearly erred when it continued the final hearing and did not award guardianship to appellant. Appellant makes the assertion that the circuit court continued the hearing from January to March in order to allow appellee's mother to be contacted and be present at the hearing. Appellant cites no authority to support an argument that the circuit court's continuation of the hearing was in error. This court need not review an argument that is unsupported by legal authority. *See Hanks v. Sneed*, 366 Ark. 371, 235 S.W.3d 883 (2006).

The circuit court found that placement with Ms. Anderson was a less restrictive alternative than awarding a guardianship to appellant and denied appellant's petition. If it is found that alternatives to guardianship are feasible and adequate to meet the needs of the respondent, the court may dismiss the action. Ark. Code Ann. § 28-65-213(c)(2) (Repl. 2004). We hold that the circuit court did not clearly err in finding that placement of the child with Ms. Anderson was a feasible alternative to guardianship and dismissing the petition pursuant to section 28-65-213(c)(2).

Appellant's second point on appeal is that the circuit court clearly erred when it denied and dismissed appellant's petition and gave custody to appellee's mother, who was not a party and had not intervened or filed any pleadings with the court. As demonstrated above, the circuit court did not err by denying appellant's petition. We also note that the circuit court's order did not place custody of the child with Ms. Anderson. To the extent appellant is arguing that appellee's mother should have intervened in the case before she could be considered as a placement for the child for the purposes of section 28-65-213(c)(2), that argument was not raised before the trial court. This court will not consider issues raised for the first time on appeal. *Hunter v. Runyan*, 2011 Ark. 43, ___ S.W.3d ___. The order of the circuit court denying appellant's petition is affirmed.

Affirmed.

VAUGHT, C.J., and PITTMAN, J., agree.