

DIVISION IV

CA07-50

JAVIER CRUZ

OCTOBER 31, 2007

APPELLANT

v.

APPEAL FROM THE INDEPENDENCE
COUNTY CIRCUIT COURT
[NO. P2006-155-2]

MICHAEL ROWLAND

APPELLEE

HONORABLE JOHN NORMAN HARKEY,
CIRCUIT JUDGE

AFFIRMED

Appellant Javier Cruz, the brother of the deceased father of the two minor children in this case, challenges the trial court's appointment of appellee Michael Rowland as guardian of the children whom he raised in his role as the husband of the children's deceased mother. On appeal appellant argues that the trial court erred in granting guardianship to appellee because appellee was not suitable to serve as guardian pursuant to Ark. Code Ann. § 28-65-203(e) because appellee was a nonresident who had not appointed a resident to accept service of process in any action with respect to the guardianship nor had he filed that appointment with the court. This is appellant's sole argument on appeal, and he does not challenge the trial court's determination that appointment of appellee was in the children's best interest. We find no error and affirm.

In his brief to this court, appellee responds that appellant never challenged appellee's suitability to be appointed as guardian pursuant to Ark. Code Ann. § 28-65-203(e), and appellant did not reply to dispute that argument. Our review of the record supports appellee's assertion that the argument was never made to the trial court. Furthermore, appellee's brief contains a

supplemental addendum which contains a file-marked copy of the appellee's designation of an agent for service of process in accordance with the statute. This document was executed after appellant filed his brief with this court and prior to appellee filing his responsive brief, providing further confirmation that the argument was raised for the first time on appeal.

Our long-standing rule is that we will not consider arguments raised for the first time on appeal. *Quinney v. Pittman*, 320 Ark. 177, 895 S.W.2d 538 (1995). Accordingly, we do not consider appellant's argument.

Affirmed.

ROBBINS and VAUGHT, JJ., agree.