

RENDERED: AUGUST 23, 2013; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2012-CA-001570-MR

LINA S. HAGER

APPELLANT

v. APPEAL FROM BULLITT CIRCUIT COURT  
HONORABLE ELISE GIVHAN SPAINHOUR, JUDGE  
ACTION NO. 12-CI-00673

KATHRINE REBECCA HENDRICKS AND  
JAMES ANTHONY HAGER

APPELLEES

OPINION  
REVERSING AND REMANDING

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BEFORE: DIXON; MOORE; AND THOMPSON, JUDGES.

THOMPSON, JUDGE: Lina S. Hager appeals from an August 14, 2012, order of the Bullitt Circuit Court denying her petition to intervene in a custody action between Kathrine Rebecca Hendricks and James Anthony Hager. Because we hold that the circuit court erred when it denied Lina's motion, we reverse and remand.

Kathrine and James are the biological parents of S.H., born May 5, 2010. Lina is the paternal grandmother of S.H. On June 8, 2012, Kathrine filed a verified petition for custody with the Bullitt Circuit Court seeking sole custody of S.H. James filed a response seeking joint custody and Lina filed a petition to intervene. In addition, James and Lina filed a joint motion for *pendente lite* visitation. On August 14, 2012, the circuit court granted James parenting time on alternating weekends supervised by Lina. It was further ordered that both parties and Lina were to be drug tested. On the same day the circuit court denied Lina's motion to intervene, this appeal followed.

Lina argues the circuit court erred when it denied her motion to intervene, that she was denied procedural due process as a result of that denial and that the denial was arbitrary and contrary to the evidence. We agree that the circuit court's denial of Lina's motion was reversible error.

Kentucky Rules of Civil Procedure (CR) 24.01 allows a party to intervene in an action:

(a) when a statute confers an unconditional right to intervene, or

(b) when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless that interest is adequately represented by existing parties.

CR 24.01(1). Lina argues that she has an interest in the subject matter of the action as well as a right to intervene pursuant to Kentucky Revised Statutes (KRS) 405.021.

KRS 405.021 authorizes the circuit court to grant reasonable visitation rights to grandparents following a determination that it is in the best interest of the child to do so. We agree that KRS 405.021 functions to grant Lina an interest in the underlying custody action. That same action serves to address issues of residence and parental visitation and it is in the interest of judicial economy to address all matters pertaining to the children in one collective action. This Court recognizes that circumstances often lead to the deterioration of relationships among even the best intentioned parents and grandparents. In the event of such unfortunate events, the function of KRS 405.021 can be better accomplished by granting grandparent intervention. *See, e.g., VanWinkle v. Petry*, 217 S.W.3d 252, 254 (Ky.App. 2007). Accordingly, the circuit court erred when it denied Lina's motion to intervene.

For the foregoing reasons, the August 14, 2012, order of the Bullitt Circuit Court is reversed and remanded.

ALL CONCUR.

BRIEF FOR APPELLANT:

Michael E. Coen  
Bardstown, Kentucky

BRIEF FOR APPELLEES:

No brief filed