

**FILED: November 21, 2012**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of I. J. R.,  
a Child.

DEPARTMENT OF HUMAN SERVICES,  
Petitioner-Respondent,

and

T. L. R.,  
A. G. J., D. R., J. R., and L. M.,  
Respondents,

v.

I. J. R.,  
Appellant.

Washington County Circuit Court  
J100087

Petition Number  
01J100087

A151367

Eric Butterfield, Judge.

Argued and submitted on October 09, 2012.

Megan L. Jacquot argued the cause and filed the brief for appellant.

Cecil A. Reniche-Smith, Assistant Attorney General, argued the cause for respondent Department of Human Services. With her on the brief were Ellen F. Rosenblum, Attorney General, and Anna M. Joyce, Solicitor General.

James N. Westwood argued the cause for respondent L. M. With him on the brief were Lynn M. Travis and Stoel Rives LLP.

No appearance for respondent T. L. R.

No appearance for respondent A. G. J.

No appearance for respondents D. R. and J. R.

Before Schuman, Presiding Judge, and Wollheim, Judge, and Nakamoto, Judge.

PER CURIAM

Reversed and remanded.

1 PER CURIAM

2 In this unusual juvenile dependency case, child I. J. R. appeals in the wake  
3 of her parents' relinquishment of their parental rights; the juvenile court's dismissal of  
4 child's commitment to DHS custody; and the court's appointment of child's grandparents,  
5 her long-term caregivers and intervenors in the case, as her guardians under ORS  
6 419B.366. DHS was going to remove child from grandparents and place her with the  
7 foster family that cared for her half-brother, with the intention that the family would  
8 adopt both children, but the court concluded that a durable guardianship with  
9 grandparents was in child's best interests.

10 Child appeals (1) a permanency judgment dismissing her commitment to  
11 DHS custody and appointing grandparents as guardians, and (2) the juvenile court's order  
12 denying child's motion to hold a hearing and to enter findings of fact as to grandparents'  
13 guardianship. Child's court-appointed special advocate (CASA) disagreed with child's  
14 initial position on appeal, contending that the juvenile court correctly concluded that  
15 guardianship with grandparents was best for child. Since oral argument, child has  
16 changed her position and now agrees that it is in her best interest to remain with  
17 grandparents. She has withdrawn her first four assignments of error concerning DHS's  
18 custody and her eighth assignment concerning a hearing and findings as to the  
19 guardianship. The CASA has no objection.<sup>1</sup> Thus, we address child's three remaining  
20 assignments concerning the guardianship and visitation with her half-brother.

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<sup>1</sup> DHS did not appeal the permanency judgment.

1           In her fifth assignment, child contends that the juvenile court's appointment  
2 of grandparents as guardians is defective because the court failed to follow the necessary  
3 statutory procedures to establish a guardianship, as required by ORS 419B.366. The  
4 CASA concedes that the juvenile court did not follow the necessary statutory procedures  
5 in ORS 419B.366(1) through (4) and that the matter should be remanded so that the  
6 juvenile court can properly establish and, as noted below, formalize the guardianship.  
7 We agree that the court erred and accept the CASA's concession.

8           In her sixth assignment, child contends that the trial court erred in failing to  
9 issue letters of guardianship pursuant to ORS 419B.367. In her answering brief, the  
10 CASA contended that issuance of letters of guardianship pursuant to ORS 419B.367  
11 should be left to the discretion of the juvenile court, but she now concedes that we should  
12 remand to allow the juvenile court to issue letters of guardianship. We agree with child's  
13 and the CASA's positions that the court should issue letters of guardianship to  
14 grandparents. *See* ORS 419B.367(1) ("Upon granting a motion for guardianship under  
15 ORS 419B.366 \* \* \* the court shall issue letters of guardianship to the guardian.").

16           In her seventh assignment, child contends that the juvenile court erred in  
17 refusing to order visitation with her half-brother and that preservation of that relationship  
18 is important. The CASA now concedes that the juvenile court's denial of child's request  
19 for visitation was in error and requests that we remand for entry of an order for visitation  
20 between child and her half-brother. We agree and accept the CASA's concession.

21           Reversed and remanded.