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IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 22-0287

In re the Matter of the Guardianship of
L.R.T.S. and A.M.T.S.:

Echo Rene Sims,
Respondent and Appellant,
vs.

David Mark Sammons,
Petitioner and Appellee.

APPELLANT'S BRIEF

Appealed from the First Judicial District Court, Lewis and Clark County

Cause Nos. BDG-2019-21 and BDG-2019-22

Honorable Michael F. McMahon Presiding

Appearances:

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TABLE OF AUTHORITIES

Cases

Fischer v. Fischer, 2007 MT 101, 337 Mont. 122, 157 P.3d 682

Schwarz v. Schwarz (In re L.R.S.), 2018 MT 48, 390 Mont. 366, 414 P.3d 285

Statutes

Mont. Code Ann. § 40-4-212 (2021)

Mont. Code Ann. § 40-4-219 (2021)

Mont. Code Ann. § 40-4-228 (2021)

Mont. Code Ann. § 40-9-102 (2021)

Mont. Code Ann. § 75-5-222 (2021)

I. STATEMENT OF ISSUES

Whether the District Court was clearly erroneous and abused its discretion in appointing temporary guardianship of L.R.T.S. and A.M.T.S. to Appellee David Sammons.

- A. Whether the District Court incorrectly applied the “best interests” standards of Mont. Code Ann. §§ 40-4-212 and -219, in appointing a temporary guardian.
- B. Whether the District Court incorrectly applied the standards of Mont. Code Ann. § 40-4-228, in appointing a temporary guardian.
- C. Whether the District Court erred in finding that circumstances have suspended or limited Appellant Echo Sims’s constitutional right to parent her children.

II. STATEMENT OF THE CASE

This is a proceeding regarding the temporary guardianship of siblings L.R.T.S., age 11, and A.M.T.S., age 6.

The children’s maternal grandparents David Mark Sammons (“David”) and Pamela Michaella Sammons (“Michaella”) petitioned the District Court for an emergency temporary guardianship of the children, which was granted on February 10, 2022. The District Court held a hearing on the guardianship petition on April 12, 2022. David and Michaella appeared with their attorney Michelle H. Vanisko. The children’s natural mother Echo Sims (“Echo”) appeared with her attorney Gregory M. Worcester. The children’s natural father Jim Clayton Sims did not appear in person or via counsel.

The district court directed the parties to submit proposed Findings of Fact and Conclusions of Law and a brief in support of their position. Both parties submitted these on April 22, 2022. On April 27, 2022, the district court issued Findings of Fact, Conclusions of Law, and orders removing Michaella and appointing David as the children's guardian. Echo filed her Notices of Appeal on May 27, 2022.

III. STATEMENT OF FACTS

This case began when Echo voluntarily gave temporary guardianship of her two children to her parents David and Michaella in January of 2019. Echo consented to the guardianship because she was experiencing temporary housing and job insecurity and was recovering from a major surgery. Echo petitioned to have the guardianship terminated in July of 2019, because she had found stable housing in Great Falls, had enrolled in post-secondary education, and was able to resume caring for her children.

David and Michaella submitted a filing to the district court opposing termination of the guardianship and requesting a hearing. They refuted Echo's claims of stability and asserted that she was not fit to resume parenting of her children. The guardianship remained in place by order of the district court. In January of 2021, the district court terminated Michaella's role as guardian of the children and limited David's role. Echo was granted full-time parenting, while

David was authorized to ensure that the children’s professional services and academic programs were properly continued, and to “have discretionary access to Echo’s home at reasonable hours without notice” to ensure the children’s safety and well-being. David filed in June of 2021 for the guardianship to be fully terminated, and the district court ordered it so.

On February 10, 2022, David and Michaella filed an Emergency Petition for Guardianship. On that date, Echo and Michaella had a domestic dispute that ended in a physical altercation, and Echo was subsequently arrested and charged with Partner or Family Member Assault (“PFMA”) on Michaella. The district court granted the appointment of David and Michaella as guardians on February 10, 2022 and set a hearing on the matter for March 1, 2022. David’s and Michaella’s counsel Michelle H. Vanisko requested that the hearing date be changed for her convenience, and the district court changed the hearing date to February 24, 2022. David, Michaella, and Echo all requested that the district court change this date as well; Echo, so she could retain counsel, and David and Michaella, so they could have time to find and serve Echo. The district court then moved the hearing to March 24, 2022. David’s and Michaella’s counsel again asked that this date be changed to accommodate her schedule, and the district court set the hearing for March 21, 2022. This still did not comport with Ms. Vanisko’s schedule, and she again filed to reschedule the hearing. The hearing was then set and held by the

district court on April 12, 2022, over two months after the emergency guardianship was granted.

Ms. Vanisko first called Emily Woodward, a speech therapist who had seen and evaluated both children. G'ship Hr'g Tr. 7-10, Apr. 12, 2022. Ms. Woodward testified that she had seen A.M.T.S. and determined that she did not need speech therapy services. G'ship Hr'g Tr. 8:6-14, Apr. 12, 2022. Ms. Woodward had been providing services to L.R.T.S. but discharged him prior to meeting his therapy goals because he had missed two consecutive appointments without contact from the family. G'ship Hr'g Tr. 8:16-9:8, Apr. 12, 2022.

Ms. Vanisko then called Letitia Wilkins, principal at Warren Elementary School where the children were enrolled. G'ship Hr'g Tr. 10-16, Apr. 12, 2022. Ms. Wilkins testified that the children had been enrolled at Warren Elementary School since the fall of 2021, and that since they had been enrolled, their attendance had been “poor.” G'ship Hr'g Tr. 13:9-16, 14:16:21, Apr. 12, 2022. Ms. Wilkins stated she believed that the school had recorded “over 30 absences for both children,” and that their attendance had improved since the emergency guardianship had been granted, though she did not quantify or further characterize what she meant by “improved.” G'ship Hr'g Tr. 14:22-15:6, Apr. 12, 2022. Ms. Wilkins then testified that “we” (presumably the school administration) contacted Echo regarding the children’s attendance during January 2022, and Echo stated

that they were having a hard time and had been sick. G'ship Hr'g Tr. 15:14-16:4, Apr. 12, 2022.

Ms. Vanisko's next witness was Jennifer Klemp, L.M.T.S.'s fifth grade teacher at Warren Elementary. G'ship Hr'g Tr. 16-22, Apr. 12, 2022. Ms. Klemp testified that she had been contacted by Echo several times regarding Echo's concerns for how L.M.T.S. was being treated at school. G'ship Hr'g Tr. 18:13-19:14, Apr. 12, 2022. Ms. Klemp then addressed L.M.T.S.'s attendance, stating that he had been "consistent" in either missing school or arriving late from the beginning of the school year until after winter break. G'ship Hr'g Tr. 19:15-24, Apr. 12, 2022. She further testified that had begun arriving on time and was happier and more regulated in class coinciding with David and Michaella being granted guardianship. G'ship Hr'g Tr. 19:25-21:13, Apr. 12, 2022.

The next witness called by Ms. Vanisko was Wilma Tabaracci, A.M.T.S.'s kindergarten teacher at Warren Elementary. G'ship Hr'g Tr. 22-27, Apr. 12, 2022. Ms. Tabaracci stated that she had been contacted by Echo at least three times via a parent-teacher communication application: first, that Echo was concerned that A.M.T.S. told Echo that A.M.T.S. was unhappy coming to school; second, that Echo was concerned that A.M.T.S. was not getting a lunch or milk; and third, that A.M.T.S. told Echo that A.M.T.S. was afraid of getting in trouble from Ms. Tabaracci for coming to school late. G'ship Hr'g Tr. 23:15-24:5, Apr. 12, 2022.

Ms. Tabaracci testified that A.M.T.S. arrived at school late “a few times,” that her attendance was “poor,” and that her attendance had improved since February of 2022. G’ship Hr’g Tr. 26:3-15, Apr. 12, 2022. Regarding A.M.T.S.’s demeanor and behavior in class, Ms. Tabaracci stated that A.M.T.S. had been the same happy and social child throughout the school year. G’ship Hr’g Tr. 26:16-27:8, Apr. 12, 2022.

Michaella testified next. G’ship Hr’g Tr. 28-39, Apr. 12, 2022. She gave her account of the incident between herself and Echo on February 10, 2022 when Echo was charged with PFMA. G’ship Hr’g Tr. 29:24-34:2, Apr. 12, 2022. Michaella went on to detail the counseling, occupational therapy, and speech therapy that either one child or both children had been participating in. She testified that these therapies stopped when the original guardianship was terminated. Michaella also stated that Echo stopped giving L.R.T.S. his prescribed medication in October of 2021. G’ship Hr’g Tr. 34:9-37:12, Apr. 12, 2022. Michaella stated that since the emergency guardianship had been in effect that the children had begun occupational therapy and L.R.T.S. was back on his medication. G’ship Hr’g Tr. 37:13-38:23, Apr. 12, 2022.

Ms. Vanisko then called David to testify. G’ship Hr’g Tr. 40:2-58:9, Apr. 12, 2022. David stated that he was not home and did not witness the assault incident between Echo and Michaella. G’ship Hr’g Tr. 40:7-9, Apr. 12, 2022. He

expressed concern that, if the guardianship was terminated, the children would be taken out of school, out of services, and L.R.T.S. would have his medication stopped. G'ship Hr'g Tr. 51:7-20, Apr. 12, 2022.

Ms. Vanisko advised the district court that she had no further witnesses. Echo's counsel Mr. Worcester then moved for dismissal of the petition, asserting that Ms. Vanisko had not established any facts showing that Echo's ability to parent had been limited by circumstance as required by statute. Mr. Worcester pointed out that the Emergency Petition for Guardianship listed five reasons why Echo's ability to parent was limited by circumstance, and Ms. Vanisko did not even attempt to establish proof of any of those reasons. G'ship Hr'g Tr. 58:16-23, Apr. 12, 2022.

Ms. Vanisko offered the counterargument that Echo's ability to parent was limited by circumstances because Echo does not take care of her children—specifically, that she disregards medical opinions. G'ship Hr'g Tr. 59:2-8, Apr. 12, 2022. Ms. Vanisko further argued that Echo's ability to parent was limited by circumstances because Echo is verbally abusive and was difficult to locate and serve documents upon. G'ship Hr'g Tr. 59:8-21, Apr. 12, 2022.

Mr. Worcester countered that, if Ms. Vanisko wanted to establish any facts about Echo's living situation, she could have called Echo as a witness. Instead of doing so, Ms. Vanisko offered brand-new justifications and reasons why Echo's

ability to parent was limited by circumstances. The district court then denied Mr. Worcester's motion, and Mr. Worcester called Echo to testify. G. Hr'g Tr. 59:25-60:11, Apr. 12, 2022.

The district court then advised Echo that, because she still had pending criminal charges for PFMA, she had the right to remain silent, and that anything she said in her testimony could be used against her by the state. Echo agreed to testify. G'ship Hr'g Tr. Excerpt 3:10-24, Apr. 12, 2022. Echo testified that she was not negligent in getting her children to school regularly or on time because they had contracted several illnesses at different times. G'ship Hr'g Tr. Excerpt 5:2-16, Apr. 12, 2022. She stated that, if there were no guardianship, she would still ensure that her children were administered any prescribed medications. G'ship Hr'g Tr. Excerpt 5:17-6:7, Apr. 12, 2022. Echo further testified that she had been employed as a phlebotomist in Kalispell since February and had been renting a two-bedroom apartment for nearly two months. G'ship Hr'g Tr. Excerpt 6:8-21, Apr. 12, 2022.

Echo denied being diagnosed with any mental health conditions and being dependent on any drugs, including marijuana, pointing out that she had previously completed a mental health evaluation, and had recently passed a drug test in order to get her current employment. G'ship Hr'g Tr. Excerpt 6:22-8:2, Apr. 12, 2022. Echo asserted that she is not verbally abusive to her children, though she does

occasionally raise her voice. G'ship Hr'g Tr. Excerpt 8:4-16, Apr. 12, 2022. She said that her children are used to raised voices because David and Michaella regularly shout at each other in their home. G'ship Hr'g Tr. Excerpt 8:17-9:10, Apr. 12, 2022.

Echo said that she was in general agreement with the testimony of her children's teachers and principal. She had some initial concerns about L.R.T.S. being bullied at school and on the school bus. Echo stated that her children missed a lot of school for medical reasons, and that when they were late to school it was because Michaella took them to school while Echo worked at Michaella's daycare. G'ship Hr'g Tr. Excerpt 9:11-10:13, Apr. 12, 2022.

Regarding financial support, Echo testified that she provided whatever the children needed since June of 2021. She stated that her parents would often offer to pay for things and encouraged her to save her money so she could get her own place to live. G'ship Hr'g Tr. Excerpt 10:14-24, Apr. 12, 2022. Echo said that her current employment and the child support that the children's father paid was enough to support her and the children. G'ship Hr'g Tr. Excerpt 10:25-11:6, Apr. 12, 2022.

Echo then offered her account of the incident between herself and Michaella on February 10, 2022 when Echo was charged with PFMA. G'ship Hr'g Tr. Excerpt 12:11-15:1, Apr. 12, 2022. She went on to say that her parenting was not

an issue between her and her parents until she, David, and Michaella began arguing, and that living so close together caused more arguments. Echo stated that she loved her parents and wanted them to be involved in her children's lives, but that everyone would have a better relationship with each other if Echo and the children did not reside with David and Michaella. G'ship Hr'g Tr. Excerpt 15:2-19, Apr. 12, 2022.

Ms. Vanisko then cross-examined Echo. G'ship Hr'g Tr. Excerpt 16:1-19:24, Apr. 12, 2022. Ms. Vanisko sought more specific dates regarding the children's illnesses and absences from school; Echo said she didn't recall such details, though she did communicate with the school regularly about her children's absences. G'ship Hr'g Tr. Excerpt 16:3-18:1, Apr. 12, 2022. Ms. Vanisko pointed out that, if Echo communicated with the school, it seemed unusual that the school would call for a well-check because of absences. Echo stated that she was not aware that the school had done so. G'ship Hr'g Tr. Excerpt 18:2-16.

The next topic Ms. Vanisko addressed was Intermountain dropping L.R.S.T. from services. Echo testified that the relationship between herself and Intermountain staff had soured, and everyone was in agreement that terminating services was the best option. G'ship Hr'g Tr. Excerpt 18:17-19:15, Apr. 12, 2022. Ms. Vanisko then asked Echo if David and Michaella's arguing with each other

began when Echo moved in with them, or if it had happened before that. Echo stated that they had always had arguments. G'ship Hr'g Tr. Excerpt 19:16-22.

Mr. Worcester stated that he had no more witnesses, and Ms. Vanisko recalled Michaella to the stand. Michaella disputed how often she was responsible for taking the children to school, as well as some aspects of Echo's account of the PFMA incident. G'ship Hr'g Tr. 61:10-62:23, Apr. 12, 2022. Ms. Vanisko then recalled David to testify. David asserted that Echo was not truthful when she stated that she no longer uses marijuana. G'ship Hr'g Tr. 63:20-65:10, Apr. 12, 2022. David agreed that he had told Echo to save her money, but that she did not have enough money to provide everything the kids needed as she had said. David further asserted that Echo often borrowed money from David and Michaella and did not repay it. G'ship Hr'g Tr. 65:11-66:10, Apr. 12, 2022.

David then testified that Echo had told him as recently as three weeks previously that she was still working on getting an apartment, and that he was not aware that she had attained employment in Kalispell. G'ship Hr'g Tr. 66:12-68:2, Apr. 12, 2022. The court clerk then informed Ms. Vanisko that Dr. Kari Loomis had arrived to testify. The district court clarified that Dr. Loomis was being called as a rebuttal witness, and she was then questioned by Ms. Vanisko. G'ship Hr'g Tr. 68:3-70:13, Apr. 12, 2022.

Dr. Loomis testified that Echo had never spoken to her about taking L.R.T.S. off his medication. G'ship Hr'g Tr. 69:24-70:25, Apr. 12, 2022. The district court directed the attorneys to submit post-hearing briefs and proposed findings of fact and conclusions of law by April 22, 2022. Ms. Vanisko then advised the district court that if the guardianship was continued then David and Michaella would file to adopt the children. The district court advised Ms. Vanisko that he personally and the Montana Supreme Court abhor the termination of parental rights. The district court then directed that the emergency guardianship would continue until a new order was issued, followed by inquiring about contact between the children and Echo. David and Michaella stated that Echo has had several phone calls a week with the children, but no face-to-face contact. The district court advised the attorneys to work out a plan for in-person supervised visitation between Echo and the children, because them only having contact by phone was unacceptable. G'ship Hr'g Tr. 72:2-79:17, Apr. 12, 2022.

The district court issued its *Order Appointing David M. Sammons as L.R.T.S.'s Guardian* and *Order Appointing David M. Sammons as A.M.T.S.'s Guardian* on April 27, 2022. The two orders contained separate but similar findings of fact and conclusions of law.

IV. SUMMARY OF ARGUMENT

This matter does not involve an action to amend a parenting plan, so the “best interests” standards of the Montana Code Annotated do not apply. This is also not an action seeking to establish a parenting interest for a party other than a natural parent, and under Montana law the standards for such an action cannot be applied to a guardianship petition. The only applicable standard to continuing David’s guardianship of L.R.T.S. and A.M.T.S. is whether Echo’s fundamental constitutional right to parent her own children has been limited by circumstances. All the evidence supplied by David and Michaella is based either on “best interests” standards or the standards for a non-parent seeking to establish a parenting interest. Further, these are the same standards applied by the district court in its determination to extend David’s guardianship.

V. STANDARD OF REVIEW

A district court's conclusions of law related to the appointment of a guardian are reviewed to determine if they are correct. *In re Guardianship of D.T.N.*, 275 Mont. 480, 483, 914 P.2d 579, 580 (1996)(citation omitted). A district court's findings of fact are reviewed to determine whether they are clearly erroneous. *Id.*

VI. ARGUMENT

I. DISTRICT COURT WAS CLEARLY ERRONEOUS AND ABUSED ITS DISCRETION WITH REGARD TO EXTENDING THE PETITIONER'S GUARDIANSHIP.

A. The district court incorrectly applied the “best interests” standards of Mont. Code Ann. §§ 40-4-212 and -219 in appointing a temporary guardian.

In an action to amend a parenting plan, a district court applies the “best interests” standards of Mont. Code Ann. §§ 40-4-212 and -219 (2021). The factors listed for consideration by the court in these statutes include: the interaction and interrelationship of the child with the child's parent or parents and siblings and with any other person who significantly affects the child's best interest; the child's adjustment to home, school, and community; the mental and physical health of all individuals involved; chemical dependency or chemical abuse on the part of either parent; continuity and stability of care; developmental needs of the child; and whether a parent has knowingly failed to financially support a child that the parent is able to support; and the child has been integrated into the family of the petitioner. However, these standards do not apply in a guardianship proceeding. The Montana Supreme Court has held that the latter of these statutes “. . . merely provides a mechanism for the court to amend a parenting plan as between the parties to that agreement. It does not provide authority to decide custody matters between a child's parents and third parties, including appointment of a third party as a child's guardian.” *Fischer v. Fischer*, 2007 MT 101, ¶ 17, 337 Mont. 122, ¶ 17, 157 P.3d 682, ¶ 17. It should be noted that the latter statute incorporates the former by reference. Mont. Code Ann. § 40-4-219(1)(a) (2021).

The district court applies the standards of Mont. Code Ann. §§ 40-4-212 and -219 in each of the following numbers of its findings of fact in *Order Appointing David M. Sammons as A.M.T.S.'s Guardian*: 9, 10, 11, 12, 18, 19, 24, 28, 30, 31, 32, 36, 39, and 44. The same standards are applied to the following numbers of findings of fact in *Order Appointing David M. Sammons as L.R.T.S.'s Guardian*: 10, 11, 13, 14, 15, 16, 17, 18, 24, 25, 26, 30, 32, 33, 34, 36, 37, 38, 40, 41, and 46.

B. The district court incorrectly applied the standards of Mont. Code Ann. § 40-4-228(2) in appointing a temporary guardian.

When a non-parent is seeking a parental interest in a child or visitation with a child, a district court must consider the standards set forth in Mont. Code Ann. § 40-4-228(2) (2021):

A court may award a parental interest to a person other than a natural parent when it is shown by clear and convincing evidence that: (a) the natural parent has engaged in conduct that is contrary to the child-parent relationship; and (b) the nonparent has established with the child a child-parent relationship . . . and it is in the best interests of the child to continue that relationship.

The Montana Supreme Court has ruled that Mont. Code Ann. § 40-4-228, is not available for grandparents due to the more specific Mont. Code Ann. § 40-9-102 (2021). *Schwarz v. Schwarz (In re L.R.S.)*, 2018 MT 48, ¶ 9, 390 Mont. 366, ¶ 9, 414 P.3d 285, ¶ 9. The Court also held in *Fischer* that Mont. Code Ann. §40-4-228 cannot be applied to a guardianship petition. ¶ 19.

Much, if not all, of the testimony and evidence offered at the hearing by David and Michaella appeared targeted to meet the standard set by Mont. Code Ann. §40-4-228(2)(a) and (b). Specifically, David and Michaella offered evidence that Echo has engaged in conduct that is contrary to the child-parent relationship, and that David and Michaella have established a child-parent relationship with the children. The district court applies the standards of Mont. Code Ann. §§ 40-4-228 in each of the following numbers of its findings of fact in *Order Appointing David M. Sammons as A.M.T.S.'s Guardian*: 5, 9, 11, 18, 19, 21, 23, 28, 30, 31, 32, 34, 35, 38, and 39. The same standards are applied to the following numbers of findings of fact in *Order Appointing David M. Sammons as L.R.T.S.'s Guardian*: 7, 9, 10, 11, 13, 14, 15, 16, 17, 18, 24, 25, 30, 33, 34, 36, 37, 40, and 41.

C. The district court erred in finding that circumstances have suspended or limited Appellant Echo Sims's constitutional right to parent her children.

The appropriate standard for a district court to apply in an action for temporary guardianship is Mont. Code Ann. § 75-5-222 (2021). Part (1) of this statute states, “The court may appoint a guardian for an unmarried minor if all parental rights of custody have been terminated or if parental rights have been suspended or limited by circumstances or prior court order.” The Montana Supreme Court has held, “The right of a parent to custody of their child has been

recognized by this Court as being a fundamental constitutional right.” *Fischer*, ¶

24.

Echo’s parental rights have been neither terminated nor suspended, nor have they been limited by a prior court order. In their Petitions, David and Michaella state that a guardianship is appropriate because Echo’s parental rights have been limited by circumstances. Those circumstances as stated in the Petitions are that Echo is unemployed; that she has not financially supported the children; that she does not have a place to live; that she has an untreated mental health condition; and that she is dependent on drugs. None of the circumstances offered by David and Michaella, even if true, are sufficient to limit Echo’s fundamental constitutional right to parent her children. Echo testified that she is employed, that she does have a place to live, that she supported the children to the extent that David and Michaella would allow her to, that she is mentally healthy, and that she is not dependent on drugs.

None of the testimony offered at the guardianship hearing by David and Michaella, and none of the district court’s findings of fact in either *Order*, refute or contradict Echo’s testimony that she is employed, has a place to live, can support the children going forward, and that she is mentally healthy. Though there are findings of fact that call into question Echo’s testimony regarding her use of marijuana, the district court correctly states in the conclusions of law in both

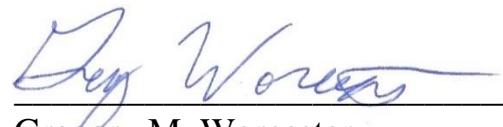
Orders, “The Court may not consider Echo’s marijuana use, if any, relative to her parenting rights. Mont. Code Ann. § 16-12-106(8) (2021).”

CONCLUSION

David’s and Michaella’s Petitions for Emergency Guardianship in this matter attempted to enumerate circumstances that could suspend or limit Echo’s fundamental constitutional parenting rights. At the guardianship hearing, however, the Petitioners failed to show that any of the circumstances alleged in their Petitions actually exist. Instead, David and Michaella sought to “move the goalposts”—to show that Echo has acted contrary to the parent-child relationship, that they had established their own parent-child relationships, and that the familiar “best interests” standards in the Montana Code Annotated weigh in favor of their guardianship over Echo’s right to parent her children. As compelling as these arguments may have seemed to the district court, they were statutorily irrelevant. The standard for maintaining the guardianship is clearly defined by Mont. Code Ann. § 75-5-222(1) (2021); the case presented by David and Michaella failed to meet this standard, largely because the case they presented disregarded this standard in an attempt to substitute it for separate, inapplicable standards.

The undersigned respectfully requests that the Montana Supreme Court reverse the decision of the district court and terminate David Sammons’s guardianship over Echo Sims’s children.

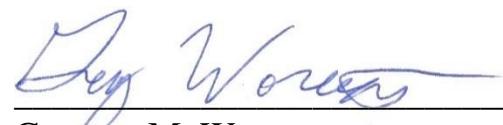
Dated this 5th day of December 2022.



Gregory M. Worcester
Attorney for Appellant

CERTIFICATE OF COMPLIANCE

Pursuant to Montana Rule of Appellate Procedure 11(4)(e), I certify that this Brief is printed with proportionately spaced Times New Roman text typeface of 14 points; is double-spaced, and the word count, calculated by Microsoft Office Word is 4,439, excluding certificate of service and certificate of compliance.

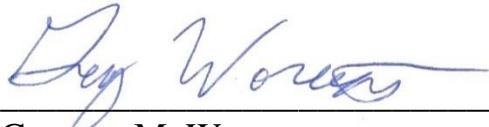


Gregory M. Worcester
Attorney for Appellant

Certificate of Service

I hereby certify that I have filed a true and accurate copy of the foregoing BRIEF with the Clerk of the Montana Supreme Court; and that I have served a copy to the following through the Montana Court Filing System:

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Gregory M. Worcester
Attorney for Appellant

APPENDIX

*Order Appointing David M. Sammons as
L.R.T.S.s Guardian, Cause No. BDG-2019-22*

And

*Order Appointing David M. Sammons as
A.M.T.S. 's Guardian, Cause No. BDG-2019-23*

CERTIFICATE OF SERVICE

I, Gregory Micheal Worcester, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Opening to the following on 12-05-2022:

Michelle H. Vanisko (Attorney)
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Dated: 12-05-2022