MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN RE: E.R.V.A.,
MINOR
R.W. & K.W.,
RESPONDENTS

vs.

H.P.A. & A.M.A.,
APPELLANTS

DOCKET NUMBER WD84222

DATE: MARCH 30, 2021

Appeal from:

The Circuit Court of Dekalb County, Missouri
The Honorable J. Bartley Spear, Jr., Judge

Appellate Judges:

Division Two: W. Douglas Thomson, Presiding Judge, Lisa White Hardwick, Judge and Edward R. Ardini, Jr., Judge

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Attorneys:

Julia R. Filley, for Minor

Kimberly S. Brown, for Respondents

Frank R. Flaspohler, for Appellants

Valerie Foland, Co-counsel for Appellants

MISSOURI APPELLATE COURT OPINION SUMMARY

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IN RE: E.R.V.A., MINOR;
R.W. & K.W., RESPONDENTS,
v.
H.P.A. & A.M.A., APPELLANTS.

WD84222 Dekalb County

Before Division Two Judges: W. Douglas Thomson, Presiding Judge, Lisa White Hardwick, Judge, and Edward R. Ardini, Jr., Judge

H.P.A. ("Father") and A.M.A. ("Mother") appeal from the judgment of the Circuit Court of Dekalb County awarding letters of guardianship for their minor child E.R.V.A. to the child's paternal aunt and uncle ("Petitioners"). Father and Mother raise two points on appeal. In their first point, they claim that the guardianship statute violates due process by allowing for the permanent severance of the parent-child relationship without constitutionally required safeguards. In Point II, Father and Mother claim that the standard of proof in minor guardianship actions must be clear and convincing evidence because of the fundamental liberty interests implicated in such cases.

AFFIRMED.

Division Two holds:

1. Pursuant to section 475.030.4, RSMo, sufficient due process protections are provided to natural parents in guardianship proceedings. Natural parents are afforded notice and a meaningful opportunity to assert their objections to the appointment of a guardian. Moreover, the law presumes that natural parents are the proper guardians for their children, and such presumption must be overcome by a showing that the parents are unwilling, unable, or unfit to provide such care. Finally, natural parents are permitted to petition for the termination of a guardianship every 180 days.

2. The proper burden of proof in a minor guardianship action is preponderance of the evidence.

Opinion by: Edward R. Ardini, Jr., Judge Date: March 30, 2021

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