

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FIVE

IN THE MATTER OF: S.J.M. ) No. ED101082  
)  
) Appeal from the Circuit Court  
) of St. Charles County  
)  
) Honorable Phillip Ohlms  
)  
)  
) Filed: January 20, 2015  
)

Nicholas Malawey (father) appeals the judgment of the Circuit Court of St. Charles County granting mother Margaret Kosowski’s petition for appointment of guardianship of their son, S.M. In his sole point on appeal, father contends the probate court erred in entering the guardianship order when another circuit court had already exercised its authority to enter a judgment regarding the same issues and parties in a divorce proceeding. Father argues the guardianship order resulted in wasteful or inconsistent judgments. We reverse and remand for further proceedings consistent with this opinion.

Division Five holds: We hold the probate court had jurisdiction, but legally erred in entering a judgment conflicting with the dissolution judgment that was still in effect.

Opinion by: Angela T. Quigless, C.J.

Glenn A. Norton, J., Concurs in the opinion of Chief Judge Quigless and the separate concurring opinion of Judge Richter.

Roy L. Richter, J., Concurs in separate opinion

Attorney for Appellant: Benjamin T. Aranda

Attorney for Respondent: Lorna L. Frahm

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**