IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF GUARDIANSHIP OF THE MINOR Z.B., PROPOSED PROTECTED PERSON(S),

Z.B.,
Appellant,
vs.
ALEXIS B.; AND MICHELLE SIMMS,
Respondents.

No. 86944

FILED

APR 17 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for guardianship of a minor child. Eighth Judicial District Court, Family Division, Clark County; Linda Marquis, Judge.

Respondent Michelle Simms' parental rights as to appellant Z.B., a minor, were terminated in 2013 and Z.B. was adopted by respondent Alexis B. On September 21, 2022, Z.B. left Alexis's home and began residing with various biological family members, including Simms. During the next five months, Alexis reported Z.B. as a runaway and requested law enforcement and child welfare agencies to make numerous welfare checks on Z.B. at Simms' home, which they did. On March 6, 2023, Simms petitioned the district court to appoint her as Z.B.'s guardian. Alexis filed an opposition and a competing petition also seeking appointment as Z.B.'s guardian. The district court held an evidentiary hearing and denied both petitions, finding that guardianship was unnecessary. Z.B. appeals.

"Absent a showing of abuse, we will not disturb the district court's exercise of discretion concerning guardianship determinations." *In re Guardianship of L.S. & H.S.*, 120 Nev. 157, 163, 87 P.3d 521, 525 (2004).

Additionally, "we will not set aside the district court's factual findings if they are supported by substantial evidence, which is evidence that a reasonable person may accept as adequate to sustain a judgment." *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007).

The district court found that Simms had not met the burden of establishing that a guardianship was necessary. *See* NRS 159A.055(1) ("The petitioner has the burden of proving by clear and convincing evidence that the appointment of a guardian . . . is necessary."); *see also* NRS 159A.054(1) ("If the court finds that the proposed protected minor is not in need of a guardian, the court shall dismiss the petition."). We agree and affirm.

In considering a petition to appoint a guardian of a proposed protected minor, the minor's parent is "preferred over all others," provided that the parent is "qualified and suitable." NRS 159A.061(1); *see also* NRS 159A.061(4)(a)-(b) (listing factors supporting a presumption that a minor's parent is unsuitable to care for the proposed protected minor). Here, the record demonstrates that Z.B.'s parent, Alexis, is able and willing to provide for all of Z.B.'s basic needs and does not "pose[ ] a significant safety risk of either physical or emotional danger to" Z.B. NRS 159A.061(4)(a)-(b). To the extent Z.B. challenges whether Alexis poses a safety risk to Z.B., the district court found that Z.B.'s allegations of physical abuse by Alexis were not credible, and we will not reweigh the district court's credibility determinations on appeal. *See Ellis*, 123 Nev. at 152, 161 P.3d at 244.

Z.B. argues that the district court abused its discretion by not finding that a guardianship was warranted because Alexis had abandoned Z.B. We disagree. NRS 159A.061(4)(c) provides a rebuttable presumption that the parent of a proposed protected minor is not suitable to care for that

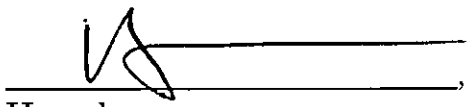
minor if the minor "has not been in the care, custody and control of the parent for the 6 months immediately preceding the filing of the petition" for guardianship. The record demonstrates that Z.B. had not been out of Alexis's care for a full six months when Simms filed the petition, and both Z.B. and Simms conceded below that Simms filed the petition just shy of six months after Z.B. left Alexis's home. Thus, NRS 159A.061(4)(c)'s presumption did not apply. The record also supports the district court's finding that Alexis did not abandon Z.B., given that Alexis made consistent efforts to return Z.B. to her care during Z.B.'s absence.

Z.B. also argues that the district court failed to consider her preference for Simms to serve as guardian. This argument lacks merit given that the district court acknowledged Z.B.'s wishes in its written order. *See* NRS 159A.061(6)(b) (providing that the district court must consider the preference of the proposed protected minor, "if he or she is 14 years of age or older" when determining who shall serve as guardian). And regardless, Z.B.'s preference could not overcome the district court's conclusion that a guardianship was not necessary.

Because Z.B. has a parent who is willing and able to care for her needs, substantial evidence supports the district court's finding that appointment of a guardian would be contrary to Z.B.'s best interests. *See* NRS 159A.061(9) ("In determining whether to appoint a guardian of . . . a proposed protected minor and who should be appointed, the court must always act in the best interests of the proposed protected minor."). Accordingly, we conclude the district court properly found that a

guardianship was unnecessary and did not abuse its discretion by denying Simms' petition.[1] Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED.



_____, C.J.
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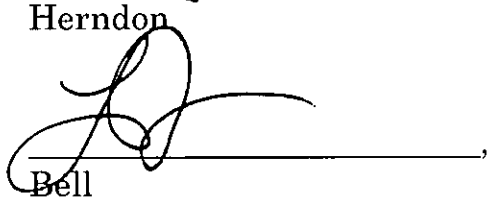
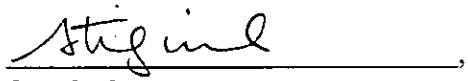


_____, J.
Bell



_____, J.
Stiglich

cc: Hon. Linda Marquis, District Judge, Family Division
Legal Aid Center of Southern Nevada, Inc.
Alexis B.
Isso & Associates Law Firm, PLLC
Eighth District Court Clerk

[1]Because we affirm the district court's decision that a guardianship is unnecessary, we need not reach Z.B.'s challenges to the district court's findings regarding Simms' suitability to serve as Z.B.'s guardian or Z.B.'s argument that the district court considered improper legal standards when determining Simms' suitability, if a guardianship was necessary.