

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE  
GUARDIANSHIP OF THE PERSONS:  
M. F. M. AND M G. M., PROTECTED  
MINORS.

No. 82469

E. N.,  
Appellant,  
vs.  
M. G.; AND J. C.-G.,  
Respondents.

**FILED**

MAR 11 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DIRECTING TRANSMISSION OF RECORD AND REGARDING  
PRO BONO COUNSEL*

This is an appeal from a district court order denying a petition to terminate a guardianship over minor children. Having considered the documents transmitted by the district court and the notice of appeal, this court has determined that the appointment of pro bono counsel to represent appellant would assist this court in reviewing this appeal. By this order, the court expresses no opinion as to the merits of this appeal.

Pro bono counsel is an attorney who provides legal services without charge for the benefit of the public good. The appointment of pro bono counsel provides attorneys with an opportunity to volunteer legal services in furtherance of their professional responsibility and, at the same time, allows financially eligible litigants access to quality legal representation without cost. Counsel will be appointed for purposes of this appeal only and will participate in oral argument. Currently, the Pro Bono Committee of the Appellate Litigation Section of the State Bar of Nevada

(Pro Bono Committee), in conjunction with the Legal Aid Center of Southern Nevada, has developed a pro bono appellate program to assist the public and this court. This case is hereby referred to the program established by the Pro Bono Committee to evaluate whether appellant can benefit from the program.

Accordingly, the clerk of this court is directed to transmit a copy of this order and the district court order, as well as the attached case summary, to the Legal Aid Center of Southern Nevada for financial eligibility screening. If appellant qualifies and does not object to pro bono counsel, the Legal Aid Center in cooperation with the Pro Bono Committee shall locate a volunteer attorney from the program to represent appellant. Once an attorney is located, the attorney shall file a notice of appearance in this court within 60 days from the date of this order. Briefing and oral argument will be scheduled thereafter. Alternatively, if appellant is not financially eligible or objects to pro bono representation, or if a volunteer attorney cannot be located, the Legal Aid Center of Southern Nevada shall notify this court in writing within 60 days from the date of this order. In such case, oral argument will not be held. The deadlines to file documents in this appeal are suspended pending further order of this court.

This court further concludes that review of the complete record is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in District Court Case No. G-19-052440-M. *See* NRAP 11(a)(2) (providing that the complete “record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court,” as well as “any previously

prepared transcripts of the proceedings in the district court"). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1).

It is so ORDERED.

1. Sanders, C.J.

cc: E. N.  
John Buchmiller and Associates, LLC  
Eighth District Court Clerk  
Legal Aid Center of Southern Nevada, Barbara E. Buckley,  
Executive Director  
Anne R. Traum, Coordinator, Appellate Litigation Section,  
Pro Bono Committee, State Bar of Nevada  
Kelly Dove

Docket No. 82469

*In the Matter of the Guardianship of the Persons: M. F. M. AND M G. M.,  
Protected Minors*

Respondents were granted guardianship of the children in June 2020. Appellant, the childrens' natural mother, filed a petition to terminate the guardianship in October 2020 and an amended petition in November 2020. The district court denied the petition, concluding that appellant did not demonstrate by clear and convincing evidence that the welfare of the children would be substantially enhanced by termination of the guardianship as required by NRS 159A.1919.

*Alvin J. Smith*  
CLERK OF THE COURT

1 FFCL

2 PATRICIA WARNOCK, ESQ.

3 Nevada Bar #14432

4 JOHN SCHALLER, ESQ.

5 Nevada Bar #15092

6 JOHN BUCHMILLER & ASSOCIATES

7 516 South Fourth Street

8 Las Vegas, Nevada 89101

9 Phone: (702) 849-0616 Fax: (702) 583-7373

10 patricia@buchmillerlaw.com

11 jschaller@buchmillerlaw.com

12 Attorneys for Guardians Montrail Green and Jermia Coaxum-Green

13 EIGHTH JUDICIAL DISTRICT COURT  
14 FAMILY DIVISION  
15 COUNTY OF CLARK, STATE OF NEVADA

16 In the Matter of the Guardianship of the  
17 Persons:

18 MALAN FAITH MCCALLISTER and  
19 MARIAH GRACE MCCALLISTER,

20 Protected Minors.

CASE NO: G-19-052440-M

DEPT NO: B

HEARING DATE: 11/20/20

21 **FINDING OF FACT CONCLUSIONS OF LAW, AND ORDER**  
22 **DENYING PETITION TO TERMINATE GUARDIANSHIP**  
23 **OF THE PROTECTED PERSONS**

24 The PETITION TO TERMINATE GUARDIANSHIP ("Petition") filed in this matter on  
25 October 21, 2020, by Natural Mother, Erin Newport, through her Counsel, JENNIFER ISSO,  
26 ESQ., and objected to by the Co-Guardians, Montrail Green, and Jermia Coaxum-Green, by and  
27 through their counsel PATRICIA WARNOCK, ESQ., of the law firm JOHN BUCHMILLER  
28 AND ASSOCIATES, LLC. In accordance with Administrative Order 20-01, out of an  
abundance of caution, and in order to prevent the spread of COVID-19 infection in the  
community, this Hearing was held via video conference through BlueJeans. This matter having

1 come on for hearing on November 20, 2020. The Honorable Linda Marquis and all parties  
2 having appeared via Blue Jeans.

3 The Court having reviewed the Petition, Exhibits and the pleadings and papers on file  
4 herein, having heard oral arguments of counsel, and Objections by Co-Guardians, and being fully  
5 advised of the premises, and good cause appearing therefore makes the following findings of fact  
6 and conclusions of law.

7  
8 Attorney Warnock advised she filed an objection to the Petition last night. Attorney  
9 Warnock stated the Guardians' objections to Natural Mother's request to terminate the  
10 guardianship. Attorney Isso stated she reviewed the objection this morning and responded to the  
11 objections. Attorney Isso advised Natural Mother is able to provide for the children and would  
12 be willing to keep the children at their current school. Additional arguments made by counsel.  
13 Attorney Warnock advised the Protected Minors were enrolled in school, they have been meeting  
14 with a therapist, they meet online with a speech pathologist three times a week, and they are  
15 scheduled to have their IEP meeting shortly.

16  
17 Upon Court's inquiry, Attorney Warnock stated Natural Mother, through Attorney Isso,  
18 objected to the guardianship when it was granted. Attorney Isso and Attorney Warnock made  
19 statements regarding where the children were living at the time the guardianship was granted.  
20 Attorney Warnock stated Natural Mother has not had the children living with her for most of  
21 their lives. Court noted a consent for guardianship was not filed when guardianship was granted.  
22 Court reviewed the history of the case with regard to Natural Mother further noted it made  
23 findings

24  
25 Court stated FINDINGS on the record in order to determine which standard for  
26 termination of guardianship applied. Attorney Isso requested additional time to review the  
27  
28



1 objections filed yesterday. Court stated it did not read the objection filed yesterday, and based  
2 on the statements made in the Petition, the burden of proof was not met.

3 **I. FINDINGS OF FACT**

4 **A. Petition to Terminate Guardianship Denied.**

5  
6 THE COURT FINDS THAT Montrail Green and Jermia Coaxum-Green were appointed co-  
7 guardians of the protected persons, twin girls Mariah McCallister and Malan McCallister on  
8 February 25, 2020.

9 THE COURT FURTHER FINDS THAT Natural Mother filed a Petition to terminate  
10 Guardianship on October 21, 2020.

11  
12 THE COURT FURTHER FINDS THAT Co-Guardians filed an objection to the Petition  
13 to Terminate Guardianship.

14 THE COURT FURTHER FINDS that the Natural Mother objected to the Guardianship  
15 and did not file a consent to the Guardianship at any of the previous hearings, including on  
16 November 20, 2019, January 9, 2020, and February 25, 2020, when appearing in court via  
17 telephone.

18  
19 THE COURT FINDS THAT pursuant to NRS 159A.1905 Natural Mother must show by  
20 clear and convincing evidence that termination or modification of the protected persons would be  
21 in the best interests of the protected persons and that burden of proof lies on Natural Mother  
22 pursuant to NRS 159A.1905.

23  
24 THE COURT FURTHER FINDS that the Guardians objected to the termination of the  
25 guardianship.

26 THE COURT FURTHER FINDS THAT Guardians have concerns regarding the validity  
27 of the authenticity of the exhibits attached to the filing of the petition to terminate.  
28

1 THE COURT FURTHER FINDS THAT even if it accepted the exhibits filed in support  
2 of Natural Mother's Petition to Terminate as true and correct, Natural Mother's petition would  
3 still be insufficient to show that the welfare of the protected minors would be substantially  
4 enhanced by the termination of the guardianship.  
5

6 THE COURT FURTHER FINDS THAT even if it accepted everything filed as true and  
7 correct, Natural Mother still did not meet her burden of proof by clear and convincing evidence  
8 as required by NRS 159A.1905 that the children's welfare would be substantially enhanced by  
9 placement with the Natural Mother.  
10

11 THE COURT FURTHER FINDS THAT the protected persons are in school and have  
12 been with the Guardians for a substantial amount of time.

13 THE COURT FURTHER FINDS THAT the protected persons are receiving services in  
14 addition to school, and that the Guardians are making sure they are receiving those services.  
15

16 THE COURT FURTHER FINDS THAT Natural Mother failed to meet the burden of  
17 proof required to terminate the guardianship and denied Natural Mother's Petition to Terminate.  
18

## 19 II. CONCLUSIONS OF LAW

20 1. Pursuant to NRS 159A.1915, a parent has the burden of proof to show by clear and  
21 convincing evidence that there has been a material change of circumstances since the time the  
22 guardianship was created. The parent must show that, as part of the change of circumstances, the  
23 parent has been restored to suitability; and if a parent consents to the guardianship when it is  
24 created, the parent must also show by clear and convincing evidence that the welfare of the  
25 protected minor would be substantially enhanced by the termination of the guardianship and the  
26 placement of the protected minor with the parent.  
27  
28



1           2.     Pursuant to NRS 159A.1919, if the parent consented to the guardianship when it  
2 was created, the parent is required to make only that showing set forth in paragraph (a) of  
3 subsection 1: that, as part of the change of circumstances, the parent has been restored to  
4 suitability.  
5

6           3.     Natural Mother has not met her burden of proving by clear and convincing  
7 evidence that the welfare of the protected minors would be substantially enhanced by the  
8 termination of the guardianship and the placement of the protected minors with the parent.  
9

10                   **III. ORDER**  
11

12           Based on the foregoing Findings of Fact and Conclusions of Law,  
13

14           **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Petition to  
15                                   Dated this 26th day of January, 2021  
16 terminate is **DENIED**;

17                                   *Linda Marquis*

18                                   HONORABLE JUDGE LINDA MARQUIS  
19                                   DB8 F15 9E91 B74D  
20                                   Linda Marquis  
21                                   District Court Judge

21 Submitted By:  
22 /s/Patricia Warnock, Esq.  
23 PATRICIA WARNOCK, ESQ.  
24 Nevada Bar No. 14432  
25 JOHN BUCHMILLER & ASSOCIATES, LLC.  
26 516 S. Fourth Street,  
27 Las Vegas, Nevada 89101  
28 Attorney for Co-Guardians

Approved as to Form and Content

*/s/ Jennifer Issa*  
JENNIFER ISSO, ESQ. (see email)  
Nevada Bar No. 13157  
THE ISSO & HUGHES LAW FIRM  
Attorney for Natural Mother