

*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2003-282

MARCH TERM, 2004

	} APPEALED FROM:
	}
	} Windham Superior Court
Robert Zuckerman	}
	}
v.	} DOCKET NO. 74-2-03 Wmcv
	}
Guardianship of Alethea Engel	} Trial Judge: Geoffrey W. Crawford
	}
	}

In the above-entitled cause, the Clerk will enter:

Petitioner Robert Zuckerman appeals from an order of the Windham Superior Court appointing the Commissioner of the Department of Developmental and Mental Health Services (DDMHS) as temporary legal guardian of petitioner= s niece, Alethea Engel. Petitioner has not shown reversible error and, therefore, we affirm.

Before setting forth the facts and procedural history underlying petitioner= s appeal, we note that petitioner= s claims include challenges to the trial court= s findings and several of its evidentiary rulings. Although a September 25, 2003 entry order from this Court put petitioner on notice that we would affirm the superior court= s decision A if appellate review is impossible for lack of a transcript, @ petitioner chose not to order a transcript. Our rules require an appellant to produce a transcript of all parts of the proceeding below that are relevant to the issues the appellant raises on appeal. V.R.A.P. 10(b)(1); see also V.R.A.P. 10(b)(2) (appellant must produce transcript if appellant challenges findings or evidence in support thereof). Having failed to order a transcript, petitioner has waived any challenge to the court= s findings and evidentiary rulings. In re S.B.L., 150 Vt. 294, 297 (1988); see also Appliance Acceptance Co. v. Stevens, 121 Vt. 484, 487 (1960) (appellant has burden to demonstrate error in challenged rulings below and must, therefore, produce a record that substantiates appellant= s position). We turn now to the procedural history and facts as found by the superior court.

Alethea Engel is a young adult with Downs Syndrome, and no party disputes that she is a person in need of guardianship. Petitioner began caring for Alethea following the death of her mother in a June 1997 car accident. At the time, petitioner was living in Connecticut with his family. The record shows that in 2001, while a court proceeding regarding Alethea= s finances was pending in Connecticut, petitioner moved with his family, including Alethea, to Vermont. The Connecticut court was looking into petitioner= s management of Alethea= s assets, which included funds of approximately \$57,000 (Canadian). On January 25, 2001, petitioner sought court-approved guardianship over his niece in the Windham County Probate Court.

The probate court proceeding was complicated by the existence of the Connecticut proceeding and petitioner= s motions seeking recusal of the Vermont probate judge assigned to his case. Eventually, the Connecticut court dismissed the action pending before it to allow Vermont to assert jurisdiction. The Windham County Probate court granted petitioner= s recusal motion, assigned a different judge, and proceeded to hear petitioner= s guardianship request. The probate court determined that petitioner was unsuitable to be Alethea= s legal guardian because of his refusal to account for his management of Alethea= s finances. In accordance with 18 V.S.A. ' 9303(b), the court appointed DDMHS temporary

guardian of Alethea. Petitioner appealed the decision to the Windham Superior Court.

The superior court held a de novo evidentiary hearing at which petitioner testified and had the opportunity to present evidence. The court found that petitioner and his wife have provided a loving and safe home for Alethea, that Alethea and petitioner's wife share a close emotional bond, and that she is generally well cared for by petitioner and his family. The court also found, however, that petitioner has used Alethea's assets to meet his own family's financial needs, including Alethea's, but without any accounting of how he spent her money. Based on the testimony of an attorney familiar with the Connecticut probate proceeding, the court also found that those involved with the Connecticut case were never able to get any detailed financial information about Alethea from petitioner. The court found that petitioner acted improperly spending [Alethea's] funds, both her social security benefits and the life insurance and auto insurance moneys, without accounting for it or keeping records of expenditures. @ Because petitioner did not demonstrate that he could responsibly handle and guide Alethea's financial affairs, the court concluded that he was not an appropriate legal guardian for her and affirmed the probate court's decision granting temporary guardianship to DDMHS. This appeal followed.

Petitioner first argues that he was a resident of the State of Vermont and had standing to pursue his claims on Alethea's behalf here. It is not clear to what decision of the superior court this argument relates. The superior court granted petitioner party status and he participated in the evidentiary proceeding before it. Moreover, no party to this proceeding has argued on appeal that the superior court erred by granting petitioner party status in this case. While it is true that DDMHS moved to dismiss the superior court appeal on grounds that petitioner lacked standing, the court denied the motion and proceeded to hear petitioner's de novo appeal. Petitioner takes issue with DDMHS's advocacy position but he does not identify any error by the superior court. Thus, the first argument is unavailing.

Petitioner next raises an argument under the Full Faith and Credit Clause of the United States Constitution. The argument is so inadequately briefed that we cannot tell which order he claims was not given full faith and credit and which court committed the error he perceives. We do not address arguments that are not adequately briefed, and decline to do so in this case. Mellin v. Flood Brook Union Sch. Dist., 173 Vt. 202, 219 (2001).

Petitioner's final argument accuses DDMHS of forum shopping by pursuing matters related to Alethea in superior court and family court, thus causing petitioner, who is acting pro se, great expense and hardship. Petitioner's argument does not address any decision by the trial court, but, rather, reflects a misunderstanding of the relevant statutory provisions governing guardianship of an adult with Downs Syndrome like Alethea.

The temporary guardianship granted to DDMHS was done in accordance with 18 V.S.A. ' 9303. The statute gives the probate court concurrent jurisdiction to appoint DDMHS as temporary guardian when (1) a petition for guardianship has been filed pursuant to 14 V.S.A. ' 3063; (2) the proposed ward is in need of guardianship as defined by law; and (3) no suitable private guardian can be found. 18 V.S.A. ' 9303(b)(1). Then, within sixty days of the temporary appointment, DDMHS must file a petition in family court for permanent appointment or to modify or terminate the probate court order. Id. ' 9303(b)(2). According to the superior court's order, DDMHS followed those statutory procedures in this case. Thus, petitioner's accusation of improper forum shopping by DDMHS is groundless and provides no basis to reverse the temporary order at issue in this appeal.

It is clear from the record below that the injustice petitioner perceives here resulted from petitioner's own refusal to properly account for his niece's finances. We observe that petitioner's plea to remove DDMHS and appoint him as Alethea's guardian is understandable given the close relationship he and his family share with Alethea. Ultimately the plea is unsustainable, however, because petitioner has not demonstrated error in the proceedings below.

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Paul L. Reiber, Associate Justice