



SUPREME COURT OF ILLINOIS

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November 24, 2021

In re: In re Guardianship of Rosita Hardison, etc. (Queen Cunningham, respondent, v. Kecia Porter, petitioner). Leave to appeal, Appellate Court, Second District.
127586

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 12/29/2021.

Very truly yours,

Carolyn Taft Gosboll

Clerk of the Supreme Court

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No. 2-20-0595
Summary Order filed July 6, 2021

NOTICE: This order was filed under Supreme Court Rule 23(c)(2) and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

In re GUARDIANSHIP OF ROSITA HARDISON,
A disabled adult
(Queen Cunningham, Petitioner-Appellee, v. Kecia Porter, Respondent-Appellant.)

) Appeal from the Circuit Court
of De Kalb County.
)
No. 20-P-44
)
Honorable
Bradley J. Waller,
Judge, Presiding.

JUSTICE BRENNAN delivered the judgment of the court.
Justices Hudson and Birkett concurred in the judgment.

SUMMARY ORDER

¶ 1 Petitioner, Queen Cunningham, filed a petition to be appointed temporary and plenary guardian of the estate and person of her sister, Rosita Hardison, who she alleged was suffering from Alzheimer's disease. In the same proceeding, petitioner filed a separate petition to revoke powers of attorney that Hardison had given to respondent, Kecia Porter, who was petitioner's and Hardison's sister, and Hardison's boyfriend Dennis Elliot. Following a hearing, the trial court entered an order granting the latter petition and revoking the powers of attorney. Respondent unsuccessfully moved to reconsider. Respondent now appeals, *pro se*, challenging the revocation of the power of attorney given to her. As explained below, the condition of the record on appeal

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makes the meaningful review of the trial court's decision impossible, and we must affirm for that reason.

¶ 2 The petition to revoke the powers of attorney alleged, in pertinent part, that in April 2018 Hardison had a neuropsychological evaluation that indicated that she suffered from profound dementia. Hardison executed the power of attorney to respondent in July 2019. Thus, according to the petition, Hardison lacked capacity to give respondent power of attorney.

¶ 3 Respondent argues on appeal that the petition to revoke was governed by section 2-10 of the Illinois Power of Attorney Act (755 ILCS 45/2-10 (West 2020)), which provides, in pertinent part:

“(a) Upon petition by any interested person *** and a finding by the court that the principal lacks either the capacity to control or the capacity to revoke the agency, the court may construe a power of attorney, review the agent's conduct, and grant appropriate relief including compensatory damages.

(b) If the court finds that the agent is not acting for the benefit of the principal in accordance with the terms of the agency or that the agent's action or inaction has caused or threatens substantial harm to the principal's person or property in a manner not authorized or intended by the principal, the court may order a guardian of the principal's person or estate to exercise any powers of the principal under the agency, including the power to revoke the agency, or may enter such other orders without appointment of a guardian as the court deems necessary to provide for the best interests of the principal.”

According to respondent, the trial court erroneously ruled that the power of attorney was revocable based on a lack of capacity without a further showing of misconduct on the part of the agent. She also maintains that there is no evidence that Hardison lacked capacity when she executed the power

of attorney. She notes that the April 2018 neuropsychological evaluation cited in the petition to revoke suggested a factitious disorder. Respondent contends that the petition to revoke failed to state a cause of action and should have been dismissed.

¶ 4 No party has filed an appellee's brief. Accordingly, our review is governed by *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128 (1976), which "dictates that a court consider the merits of an appeal if the issues and the record are susceptible to easy decision, but that a court otherwise decide the case in favor of the appellant if the appellant establishes a *prima facie* case for reversal." *Mahoney v. Gummerson*, 2012 IL App (2d) 120391, ¶ 10. Here, however, respondent has failed to establish even a *prima facie* case for reversal. The reason is that the record on appeal does not contain any report of proceedings, and so we cannot evaluate respondent's arguments.¹ It is well established that "an appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). We must therefore presume that whatever evidence was presented at the hearing on the petition to revoke was sufficient to sustain the trial court's judgment.

¶ 5 For the foregoing reasons, the judgment of the circuit court of De Kalb County is affirmed.

¶ 6 Affirmed.

¹ In the appendix to her brief, respondent included a copy of the transcript of the trial court's ruling on her motion to reconsider. However, that is not a proper way to supplement the record on appeal. *People v. Williams*, 2012 IL App (1st) 100126, ¶ 27.



**ILLINOIS APPELLATE COURT
SECOND DISTRICT**

**55 SYMPHONY WAY
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July 23, 2021

Kecia Porter
6604 S. Oakley Ave.
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RE: In re Guardianship of Rosita Hardison, a disabled person
Appeal No.: 2-20-0595
County: DeKalb County
Trial Court No.: 20P44

The court today denied the petition for rehearing filed in the above cause. The mandate of this court will issue 35 days from today unless otherwise ordered by this court or a petition for leave to appeal is filed in the Illinois Supreme Court.

Honorable Donald C. Hudson
Honorable Joseph E. Birkett
Honorable Liam C. Brennan

Jeffrey H. Kaplan

Jeffrey H. Kaplan
Clerk of the Court

cc: Charles George Rose
Riley Nels Oncken

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