



ORIGINAL

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See Okla.Sup.Ct.R. 1.200 before citing.

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

IN THE MATTER OF THE  
GUARDIANSHIP OF T.D.S & S.I.S.,  
minor children:

MICHAEL KROHMER and SHANNON  
KROHMER,

Appellants,

vs.

KELLY TAYLOR,

Appellee.

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**FILED**  
COURT OF CIVIL APPEALS  
STATE OF OKLAHOMA

JUN - 4 2025

JOHN D. HADDEN  
CLERK

Case No. 121,847

APPEAL FROM THE DISTRICT COURT OF  
CLEVELAND COUNTY, OKLAHOMA

HONORABLE KIM CONYERS, SPECIAL JUDGE

**AFFIRMED**

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For Appellants

Eugene Bertman  
Sam Talley  
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Norman, Oklahoma

For Appellee

OPINION BY GREGORY C. BLACKWELL, JUDGE:

Michael and Shannon Krohmer appeal the district court's order denying their motion to intervene in the adoption proceedings of minor children, T.D.S

and S.I.S. The court found the Krohmers lacked standing to intervene. Upon review, we agree and thereby affirm.

### **BACKGROUND**

Kelly Taylor is the maternal grandmother of the minor children. The Krohmers are the children's paternal great-aunt and uncle. Ms. Taylor was granted a general guardianship over the minor children on February 3, 2021, to which both parents consented. The children's father passed away shortly thereafter. The mother filed a motion to terminate the guardianship on January 24, 2022. The court awarded the mother visitation and set the matter for review; however, for reasons that are not clear from the record, it appears that the mother did not move forward with the application to terminate.

On June 9, 2022, the Krohmers filed a counter-petition for guardianship, motion to intervene, and objection to appointment of guardian. According to their motion, T.D.S., who was four years old at the time the counter-petition was filed, had been living at their house since November 2020. On February 27, 2023, Ms. Taylor filed a motion to dismiss the counter-petition and motion to intervene. According to the motion to dismiss, T.D.S. had indeed been living with the Krohmers since Ms. Taylor was appointed to be the children's guardian. However, the Krohmers and Ms. Taylor apparently disagreed about whether T.D.S. should be enrolled in preschool, which ultimately led to T.D.S.'s return to Ms. Taylor's home in May 2022 and the Krohmers' decision to file their own petition for guardianship and motion to intervene.

On April 13, 2023, Ms. Taylor filed a petition to adopt the minor children, in which she stated that she believed the mother would consent to the adoption but also provided a basis to move forward with the adoption without consent if necessary. Four days later, Ms. Taylor filed notice of adoption proceedings in the guardianship case and also moved to stay the guardianship litigation in light of the same. Ms. Taylor also filed a motion to consolidate the guardianship and adoption cases. The proceedings were consolidated, and the court ordered the parties to brief the issue of whether the Krohmers had standing to intervene in the adoption proceeding.<sup>1</sup> On October 13, 2023, the court found that the Krohmers lacked standing to intervene in the adoption. The Krohmers appeal.

### **STANDARD OF REVIEW**

Review of denial of a motion to intervene as a matter of right presents a question of law. *See Morton v. Baker*, 1938 OK 409, ¶ 4, 82 P.2d 998, 1000. The appropriate standard to apply in review of the trial court's decision denying a motion to intervene as a matter of right is *de novo*. *In re Adoption of D.D.B.*, 2005 OK CIV APP 112, ¶ 13, 127 P.3d 638, 641. *De novo* review requires an independent, non-deferential re-examination of another tribunal's legal rulings. *In re A.M.*, 2000 OK 82, ¶ 6, 13 P.3d 484, 487.

### **ANALYSIS**

The Krohmers first argue that they have standing to intervene in the adoption based on their status as a "husband and wife" over the age of twenty-

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<sup>1</sup> Per the answer brief, the matter was later assigned to a different judge due to "county judge reassignments." *Answer Brief*, 3.

one years who are thereby eligible to adopt a child pursuant to statute.<sup>2</sup> The Krohmers misconstrue this statute, which concerns general eligibility to adopt, not standing to intervene in an already-filed adoption. Under the eligibility statute, all adults over the age of twenty-one, in one fashion or another, are *eligible* to adopt a child in the state. This fact does not confer a right of intervention, which the Supreme Court has generally equated with a right to notice. *See Matter of Adoption of S.A.H.*, 2022 OK 10, ¶ 25, 503 P.3d 1190, 1197 (holding that a family member who was not entitled to notice of an adoption proceeding “could not appear and object to the adoption”). To read the law as the Krohmers suggest would effectively bestow standing on all individuals age twenty-one or older to intervene in any adoption proceeding in the state. We reject this reading and hold that the Krohmers must show more than mere eligibility to adopt to have standing to intervene in the present adoption.

The Krohmers also argue they have standing because they previously had physical custody of the elder child, T.D.S., for some eighteen months while Ms. Taylor had a guardianship over both children. Notably, however, the child in question was returned to Ms. Taylor’s care in May 2022, well before Ms. Taylor

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<sup>2</sup> Title 10 O.S. § 7503-1.1 reads as follows:

The following persons are eligible to adopt a child:

1. A husband and wife jointly if both spouses are at least twenty-one (21) years of age;
2. Either the husband or wife if the other spouse is a parent or a relative of the child;
3. An unmarried person who is at least twenty-one (21) years of age;
- or
4. A married person at least twenty-one (21) years of age who is legally separated from the other spouse.

filed adoption proceedings in April 2023. While Oklahoma courts have held that grandparents and foster parents have standing as *in loco parentis*<sup>3</sup> in juvenile proceedings when they have physical custody of the children, *see, e.g., In re P.C.*, 1992 OK CIV APP 134, ¶ 7, 842 P.2d 364, 366–67 (citing *Smith v. Org. of Foster Families for Equal. & Reform*, 431 U.S. 816, 97 S.Ct. 2094 (1977)) and *In re B.C.*, 1988 OK 4, ¶ 20, 749 P.2d 542, 545, we reject the notion that the Krohmers had such a status at the time the adoption case was filed.

The following facts are uncontested on this record: at the time the adoption was filed, legal and physical custody of both children was vested in Ms. Taylor; the Krohmers' prior custody of the elder child was with the consent of Ms. Taylor as guardian; and, when Ms. Taylor sought the return of the child to her physical custody, the Krohmers returned the child. We hold that Ms. Taylor never ceded her status as guardian, nor did the Krohmers achieve the status of *in loco parentis*.<sup>4</sup>

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<sup>3</sup> "The term 'in loco parentis' means in place of a parent, and a 'person in loco parentis' may be defined as one who has assumed the status and obligations of a parent without a formal adoption." *Matter of B.C.*, 1988 OK 4, ¶ 19, 749 P.2d 542, 545 (quoting *Workman v. Workman*, 1972 OK 74, ¶ 10, 498 P.2d 1384, 1386, *overruled on other grounds by Unah By & Through Unah v. Martin*, 1984 OK 2, ¶ 10, 676 P.2d 1366).

<sup>4</sup> The Krohmers also cite *In re Adoption of I.D.G.*, 2002 OK CIV APP 22, ¶ 15, 42 P.3d 303, 307, as supporting their cause, but we find the case distinguishable. In that case,

I.D.G. lived with Petitioners for ten months. While this is not an insignificant period of time, particularly in the course of a very young life, it does not convey upon Petitioners the right, independent of their contractual right as foster parents, to control the ultimate placement of I.D.G.... Petitioners undoubtedly had standing to contest DHS's decision to remove I.D.G. from their home, but they do not have standing to pursue his adoption in a separate proceeding initiated outside of the deprived proceeding **and after I.D.G. was removed from their home.**

Additional caselaw supports the trial court's rejection of the Krohmers' claimed right of intervention here. In *Matter of Adoption of G.D.L.*, 1987 OK 115, 747 P.2d 282, the Supreme Court found that a grandmother who was not eligible for court-created visitation and not entitled to notice of the adoption proceedings had "no 'interest' in the action entitling her to intervention as a matter of right to pursue her own adoption of the child." *Id.* ¶ 16, 285 (citing *Muggenborg v. Kessley*, 1981 OK 66, 630 P.2d 1276). The Court cited the then-applicable statute, which allowed for grandparent visitation "(1) When one or both parents of a minor child are deceased or if said parents are divorced: [sic] (2) Where one natural parent is deceased and the surviving natural parent remarries, and (3) Where the parental rights of one parent has [sic] been terminated and the child is in the custody of the other natural parent." *Id.* ¶ 5 (citing 10 O.S.Supp. 1984 § 5). The grandmother in *G.D.L.* was not entitled to visitation because the parents were neither divorced nor deceased. Notably, no statute—then or now—confers visitation rights to great-aunts and uncles such as the Krohmers under any circumstances.<sup>5</sup>

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*Id.* (emphasis supplied). Similarly, the Krohmers had custody of T.D.S. for a significant amount of time. However, as stated in *I.D.G.*, physical custody for a significant period of time does not convey upon the Krohmers the right to control the ultimate placement of the two minor children in this case, especially when they only had custody of one of the two children and have not had custody of either child since 2022.

<sup>5</sup> A summary order filed on January 30, 2023, reflects that the "[p]arties agree that the counter-petitioners shall have visitation 3 weekend [sic] per month to be agreed upon by the parties." ROA 25. However, we note that such an agreement by the parties for the Krohmers to have visitation is distinct from a statutory right to visitation as a grandparent. The Krohmers had no statutory right to visitation, but only the rights afforded to them by the childrens' guardian.

Additionally, the Court in *Muggenborg* held that “[w]hile either natural parent is alive and his parental bond remains judicially unsevered, a grandparent cannot be regarded as an affected or interested party with a right to notice in an adoption proceeding.” *Id.* ¶ 7. In the present case, the Krohmers were not entitled to notice of the adoption proceeding as the children’s mother is still alive and her parental bond remains presently unsevered with her children. Because the Krohmers are not entitled to visitation per statute or notice of the adoption proceeding, they are not interested parties and therefore do not have standing to intervene in the current proceeding.

Additionally, although factually different from the present matter, the Oklahoma Supreme Court recently reiterated that individuals who are not entitled to visitation or notice of adoption proceedings lack standing to intervene in an adoption. *Matter of Adoption of S.A.H.*, 2022 OK 10, 503 P.3d 1190. Therein, the Court held that a cousin who previously sought a temporary guardianship over the minor child was not entitled to notice of the paternal grandparents’ pending adoption of the minor child. *Id.* ¶ 24. In reaching that decision, the Court noted that because consent to the adoption was only required by the father, the cousin’s standing did not extend to the resolution of the grandparents’ adoption. The Court found that the cousin was not entitled to notice of the adoption proceedings and therefore could not appear to object to the adoption. *Id.* ¶ 25. Further, the Court noted that the grandparents were not required to give notice of the adoption proceeding because the cousin did not have any statutory rights to custody or visitation. The Court cited *K.R. v. B.M.H.*,

1999 OK 40, ¶ 17, 982 P.2d 521, 524, for this contention, a decision in which the Court denied an aunt visitation because she had no constitutional right to visit her minor niece, nor did she have any statutory visitation rights under Oklahoma law.

Thus, it follows that a great-aunt and uncle to minor children do not have standing to intervene in an adoption proceeding initiated by the children's guardian where the aunt and uncle have no statutory visitation rights, were not entitled to notice of the adoption proceeding, do not have physical custody of the children, and where the mother of the children is the only party required to consent to the adoption. Accordingly, we affirm the trial court's denial of the Krohmers' motion to intervene.

**AFFIRMED.**

WISEMAN, P.J., and FISCHER, J., concur.

June 4, 2025