

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 20, 2010

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2009AP625

Cir. Ct. No. 2008GN42

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

IN THE MATTER OF THE GUARDIANSHIP OF WILLIAM N.:

CHARLES N.,

PETITIONER-APPELLANT,

v.

TIMOTHY ANDERSON, GUARDIAN AD LITEM FOR WILLIAM N.,

RESPONDENT.

APPEAL from an order of the circuit court for Chippewa County:
RODERICK A. CAMERON, Judge. *Affirmed.*

Before Hoover, P.J., Peterson and Brunner, JJ.

¶1 PER CURIAM. Charles N. appeals an order appointing Chippewa Family Services, Inc., as corporate guardian for his father, William N. and revoking William's durable and medical powers of attorney. Charles contends the

court improperly exercised its discretion by appointing the corporate guardian instead of William's nominee, Charles. Because we conclude the trial court properly exercised its discretion, we affirm the order.

¶2 William is currently suffering from Alzheimer's disease. When he was competent, he executed a durable power of attorney and healthcare power of attorney, and nominated a guardian. He first nominated his wife who has since died, then his oldest son, Charles, followed by two other children. Conflicts developed between the three children over the care of their father. The accusations included kidnapping, brainwashing and manipulating the drafting of William's power of attorney for healthcare. William made clear his desire to remain in Florida in the winters, near his daughter, Janice. Due to flooding in William's home, he started staying with Janice indefinitely. Charles and Janice did not speak to each other.

¶3 Under WIS. STAT. § 54.15(4), a court shall appoint the nominated guardian unless it is not in the ward's best interest. The best interest of an individual is not necessarily what the individual chose or would choose if he or she was still competent. *In re Guardianship of Muriel K.*, 2002 WI 27, ¶53, 251 Wis. 2d 10, 640 N.W.2d 773. A corporate guardian should only be appointed if no suitable person is available. *See* § 54.15(7). "Suitability" is broadly construed to include a wide range of policy concerns that the court may have. *In re Guardianship of Schmidt*, 71 Wis. 2d 317, 325, 237 N.W.2d 919 (1976).

¶4 Sufficient evidence in this case supports the appointment of a corporate guardian. The appointment of a guardian is a discretionary decision that must be affirmed if a reasonable judge could arrive at that decision by considering the relevant law, the facts and a process of logical reasoning. *Hartung v.*

Hartung, 102 Wis. 2d 58, 66, 306 N.W.2d 15 (1981). The court could reasonably conclude that Charles' appointment as guardian would not be in William's best interest. The evidence supports the finding that the animosity between William's children would interfere with their ability to act in his best interest.

¶5 The same findings support the trial court's decision to revoke the powers of attorney. The hostility between William's children justifies reassignment of the durable power of attorney and healthcare power of attorney.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

