

IN THE COURT OF APPEALS FOR THE CHOCTAW NATION OF OKLAHOMA

IN THE MATTER OF:  
J.L.W.  
DOB: [REDACTED]

APPELLATE CASE NO. AC-17-1  
DISTRICT COURT CASE NO.: JFJ-12-03

**ORDER**

PER CURIAM:

Before this court is a Response to Order and a Request for Clarification, by Guardians/Appellants, Melissa Patel, Chetankumar "Chet" Patel and Jenette Wells, and a response to the same filed by the Mother/Real party in interest, Brandy Wells. After considering both responses, the court declines to exercise original jurisdiction for Prohibition and Mandamus in that both parties agree that a hearing was held in the Choctaw District Court regarding the matter at hand. Therefore the request of Guardian/Appellants to order the Honorable Judge Rebecca Cryer to hold a hearing is moot. Likewise the question of extrajudicial investigation is a matter more properly handled on appeal rather than extraordinary relief. If a party is aggrieved by evidentiary rulings or admissions, that matter should be heard by regular appeal in the ordinary manner.

This court previously ruled that the appeal of an order not setting a temporary order hearing in a guardianship is not an interlocutory order appealable by right. If the trial court refuses to set a hearing, this is a situation that may require extraordinary relief, however, the matter as both parties agree is now moot. If the pleading denominated "Response to Order and Request for Clarification is meant to be a petition for rehearing, the Petition for rehearing is denied.

FILED  
CHOCTAW NATION OF OKLAHOMA  
COURT CLERK

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BY  Deputy

Rule 1.1(c), Choc.Ct.App.R. provides that any point of practice or procedure which stands unsettled by statutory or decisional law and is not specifically addressed by these Rules will be resolved by the Court as the orderly administration of legal process may require. Guardians/Appellants rightly point out that the form in Rule 1.191(e), Choc.Ct.App.R. is not available at this time, however, the Rule does set out the specific requirements for the notice and a party should be able to issue an appropriate notice thereunder. As far as the comment concerning contacting the court to obtain a date for a hearing on the Writ, our Rules specifically set out that the party seeking extraordinary relief must contact the Judge for a date for hearing. Without that requirement being implemented, the Writ would not be heard or progress orderly to resolve the matter. Further notice should be given to the opposing party as our Rules require. When Forms are not available, the parties may and should draft their own, but whether Forms are available or not, parties can not dispense with the Rules for notice and an orderly progression of the case itself.

Request for extraordinary relief denied; If the Guardians/Appellants meant their pleading to be a request for rehearing, that too is denied.

IT IS SO ORDERED.

  
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Chief Judge