

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA12-766

NEMIAH GILLIAM and CONSTANCE
DAY

APPELLANTS

V.

PHYLLIS SANDERS

APPELLEE

Opinion Delivered April 10, 2013

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT, NINTH
DIVISION

[NO. PR2011-772]

HONORABLE MARY SPENCER
MCGOWAN, JUDGE

AFFIRMED

BRANDON J. HARRISON, Judge

Nemiah Gilliam and Constance Day appeal the Pulaski County Circuit Court's decision to appoint Day's mother, Phyllis Sanders, guardian of their four children. Because their arguments on appeal are not preserved for our review, we affirm.

On 4 May 2011, Sanders filed a petition for appointment of permanent guardianship of her four grandchildren. A summons for each parent was issued and mailed on 12 May 2011; letters notifying the parents of the guardianship hearing were also sent by Sanders's attorney via certified mail, return receipt requested.

The circuit court held a guardianship hearing on 21 May 2012, at which Sanders testified that her daughter could not care for the children. Sanders stated that her daughter and her son-in-law abused illegal drugs and that Gilliam had been jailed multiple times. She



also explained that Gilliam and Day had fought physically more than once, which required Sanders to take the children. She testified that she wanted the children to be in a stable home, without violence, so they could get an education and be good citizens. The court granted Sanders guardianship over the children. After the court announced its decision, but before the hearing had officially adjourned, Day entered the courtroom. The court told Day that the children were going to live with their grandmother. Neither Day nor Gilliam objected to the proceedings at that time.

On 21 May 2012, the court entered an order appointing Sanders guardian of the four children. On 15 June 2012, Gilliam and Day filed a notice of appeal from the order. That same day, they also filed a motion for visitation and a motion to set aside the guardianship. In the motion to set aside, they argued that service of the original summons on Day was defective and that neither Gilliam nor Day had received proper notice of the guardianship hearing. Sanders filed a response to this motion on 25 June 2012. No further orders were entered by the court.

Here, Gilliam and Day continue to argue that service of the original summons on Day was defective and that neither one of them had received proper notice of the guardianship hearing. The preservation problem is that Gilliam and Day first raised these arguments in their motion to set aside the guardianship, but they did not obtain a ruling on that motion. This court may not consider arguments on appeal when a party has failed to obtain a ruling from the circuit court. *See Seidenstricker Farms v. Doss*, 374 Ark. 123, 286 S.W.3d 142 (2008) (holding that arguments made in a motion to vacate were not preserved for appellate review



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when appellant failed to obtain a ruling on the motion). The circuit court's guardianship order is therefore affirmed.

Affirmed.

GLADWIN, C.J., and WHITEAKER, J., agree.

Wright Law Firm, by: *Victor D. "Trey" Wright, III*, for appellant.

Cross, Gunter Witherspoon & Galchus, P.C., by: *Carolyn Witherspoon*, for appellee.