



ROSEBUD SIOUX SUPREME COURT  
 ROSEBUD SIOUX RESERVATION  
 ROSEBUD, SOUTH DAKOTA

2007 SEP 17 PM 4:17  
 APPEALS COURT

---

ROSEBUD SIOUX  
 FILED

IN THE MATTER OF THE  
 GUARDIANSHIP OF:  
 M. K.,  
 Minor,  
 MELISSA KARI,  
 Appellee,  
 V.  
 KAY KARI,  
 Appellant.

---

DOCKET # CA2006-11

OPINION AND ORDER

This matter is before the Court on appeal of a decision by the trial court to terminate voluntary guardianship over M.K., the child who is the subject of this appeal. The trial court in a decision dated August 14, 2006, returned legal custody to Melissa Kari, the biological mother, who in 2001, had consented giving her adopted mother, Kay Kari, temporary guardianship over the child. The August 14, 2006, order was entered pursuant to a hearing conducted on August 8, 2006.

It is this order that we are asked to review.

During oral arguments, it became clear that the only existing transcript was sketchy, at best. In addition, counsel for the appellant raised the issue that findings of fact and conclusions of law were not prepared nor entered in this case.

In order for this court to determine if a correct decision was made below, there must be an adequate record to review. The recording device used to record the August 8, 2006, hearing was malfunctioning at the time of the hearing. Attempts to transcribe that hearing were futile, as

is evidenced by the numerous references to inaudible portions of the tape. Without an accurate transcript, this Court is unable to determine if the evidence supports the trial court's decision. Further, this Court was not provided with findings of fact or conclusions of law as related to the return of M.K. to her mother. Since those factual and legal determinations were not part of the reviewable record, we are not able to discern the basis of the trial court's rationale. We, therefore, remand this case with instructions to conduct a new hearing and ensure that a reviewable record is created.

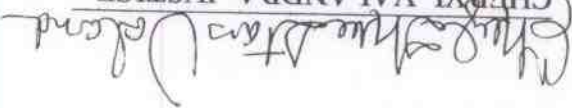
IT IS SO ORDERED.

BY THE COURT \*

L.R. GRAVES, JUSTICE



CHERYL VALANDRA, JUSTICE



CHARLES ABOUREZK, JUSTICE  
\*(Due to a medical emergency  
Justice Abourezk was unable  
to participate.)

DATED this 14th day of September, 2007.

ATTEST:

Christy Miller  
Chief Clerk of Courts