

| Bostater, Danny Jo et al | Case # | Date | |
|---------------------------------|---------------|-------------|----------------------------|
| | G-80-2 | 6/25/1982 | Proposed Findings of Facts |
| | | | |
| Brown, Ronald K | | | Petitioner |
| Brown, Marilyn | | | Petitioner |
| Grube, Paul | | | Foster parent |
| Grube, Jane | | | Foster parent |

Notice ordered issued returnable as of July 6, 1982.

S/ Robert S. Anderson
Robert S. Anderson, Judge Adams Circuit Court

IN THE MATTER OF THE GUARDIANSHIP OF)
DANNY JO HILLARD BOSTATER, TERESA LYNN)
BOSTATER, MISTY K. BOSTATER)

NO. G-80-2

Comes now Ronald K. Brown and Marilyn Brown by their counsel, DeVoss, Scott, Johnson & Baker by Timothy E. Baker and now file Proposed Findings Of Fact, Conclusions Thereon And Judgment in the following words and figures:

FILED ADAMS COUNTY
DISTRICT COURT

STATE OF INDIANA

IN THE ADAMS CIRCUIT COURT

COUNTY OF ADAMS, SS: 32 JUN 25 P 4: 59 1982 TERM

In the Matter of Danny Bostater,
Jr., Teresa Bostater, Misty
Bostater and Marti Bostater,
children alleged to be child-
ren in need of services

JUVENILE CAUSE NO. 2479

and

In Re: The Guardianship of
Danny Joe Hillard Bostater,
Teresa Lynn Bostater and Misty
K. Bostater

CAUSE NO. G-80-2

PROPOSED FINDINGS OF FACT, CONCLUSIONS
THEREON AND JUDGEMENT OF RONALD K.
BROWN AND MARILYN BROWN

Comes now Ronald K. Brown and Marilyn Brown by their counsel,
DeVOSS, SCOTT, JOHNSON & BAKER, A Professional Corporation by
Timothy E. Baker and propose that the Court adopt and make the
attached findings of fact, conclusions thereon and judgement in
the above captioned matters.

Respectfully submitted,

DeVOSS, SCOTT, JOHNSON & BAKER,
A Professional Corporationby: Timothy E BakerTimothy E. Baker
147 S. Second St., Box 30
Decatur, IN 46733
(219) 724-2129Attorneys for Ronald K. Brown
and Marilyn Brown

CERTIFICATE OF SERVICE

The undersigned certifies that a
copy of the foregoing has been
served upon all counsel of record
herein, by personal service or by
first class U.S. Mail postage
prepaid, this 25 day of
June, 1982.

DeVOSS, SCOTT, JOHNSON & BAKER
a Professional CorporationBy: Timothy E Baker

COUNTY OF ADAMS, SS:

1982 TERM

In the Matter of Danny Bostater,
Jr., Teresa Bostater, Misty
Bostater and Marti Bostater,
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Teresa Lynn Bostater and Misty
K. Bostater

CAUSE NO. G-80-2

FINDINGS OF FACT, CONCLUSIONS
THEREON AND JUDGMENT

The above-captioned causes having heretofore been consolidated,
heard by the Court on June 7, 1982, and taken under advisement, the
same is now reconsidered, and without further plea or proceeding,
and as required by law, the Court now finds the facts specially,
renders conclusions thereon and pronounces judgment, all as follows:

Findings of Fact

1. On July 21, 1978, Danny R. Bostater married Teri Jo
Richards, each being a resident of Adams County, Indiana at all
pertinent times herein.

2. Said marriage of Danny R. Bostater and Teri Jo (Richards)
Bostater was Mr. Bostater's third marriage and Mrs. Bostater's first.

3. That prior to his marriage to Teri Jo (Richards) Bostater,
Danny R. Bostater had fathered three children by a previous marriage,
namely: Danny Bostater, Jr. born July 10, 1968; Teresa Bostater
born September 21, 1969; and Misty Bostater born March 5, 1974, all
being residents of Adams County, Indiana at all pertinent times herein

4. That Teri Jo (Richards) Bostater had given birth to
Marti Bostater on July 17, 1976 out-of-wedlock.

5. That Danny R. Bostater was not the natural father of
Marti Bostater, nor did Danny R. Bostater adopt said child at any time

6. That shortly after the date on which Danny R. Bostater
married Teri Jo (Richards) Bostater, Mr. Bostater's three children
were returned to him by the Adams County Welfare Department after

being placed in the foster home of Paul and Jane Grube of RR #4, Decatur, Indiana, for approximately nine (9) months as children in need of services.

7. On March 21, 1980, Danny R. Bostater was killed when an automobile struck him while employed with Indiana-Michigan Electric Company.

8. That the natural mother of Danny Bostater, Jr., Teresa Bostater and Misty Bostater pre-deceased the natural father of said children, Danny R. Bostater.

9. That Teri Jo (Richards) Bostater had not adopted Danny Bostater, Jr., Teresa Bostater or Misty Bostater as of the date of Danny R. Bostater's death nor has she adopted said children since that time.

10. That Danny R. Bostater died testate, leaving a Last Will and Testament which was probated in the Adams Circuit Court on March 25, 1980, being Cause No. E-80-36, and The First State Bank of Decatur was appointed personal representative of said Estate.

11. That said Decedent in Item III of his Last Will and Testament nominated and appointed Ronald K. Brown and Marilyn Brown as co-guardians of the person of Danny Bostater, Jr., Teresa Bostater and Misty Bostater.

12. That Ronald K. Brown and Marilyn Brown have at no point renounced their appointment as co-guardians of said children subsequent to the death of Danny R. Bostater.

13. That on April 2, 1980, Teri Jo (Richards) Bostater filed a petition with the Adams Circuit Court to be appointed guardian of the person and estate of said three (3) orphaned Bostater children in Cause No. G-80-2.

14. That sue sponte and without notice to anyone, the Honorable Myles F. Parrish approved said guardianship petition, and Letters of Guardianship were issued to Teri Jo (Richards) Bostater on April 2, 1980.

15. That said Guardianship Letters represents Teri Jo (Richards) Bostater's only legal claim or right to custody and control of said three (3) Bostater children and their financial affairs.

16. That in January of 1981, said three (3) Bostater children and Marti Bostater were removed from the custody of Teri Jo (Richards) Bostater as alleged children in need of services by the Adams County Welfare Department being Juvenile Cause No. 2479.

17. That on April 20, 1981 all four (4) children previously removed from Teri Jo (Richards) Bostater were found to be children in need of services, Teri Jo (Richards) Bostater was found not to be a fit and proper person to have custody and control of said children, the children remained wards of the Court and remained in the foster homes of Nick and Carla Secaur (Danny Bostater, Jr.) and Paul and Jane Grube (Teresa Bostater, Misty Bostater and Marti Bostater).

18. That with the exception of Marti Bostater, the natural child of Teri Jo (Richards) Bostater who was returned to Teri Jo (Richards) Bostater in January of 1982, said three (3) orphaned Bostater children have remained in said foster homes.

19. That it is in the best interest of the three (3) orphaned Bostater children that they be raised together.

20. That it is in the best interest of the three (3) orphaned Bostater children that they be raised in a stable, secure and loving home environment.

21. That it is in the best interest of the three (3) orphaned Bostater children that they be raised in an environment which offers both a wholesome and moral male and female role model.

22. That it is in the best interest of the three (3) orphaned Bostater children that they be placed in an environment which will be permanent and enduring in its nature so as to provide said children with security and love and protect said children from the potential of again being uprooted and placed in a new and unfamiliar setting.

23. That the oldest of said three (3) Bostater children, Danny Bostater, Jr., does not wish to return to the custody of Teri Jo (Richards) Bostater and would be a disruptive element in Teri Jo (Richards) Bostater's household if so returned.

24. That Teri Jo (Richards) Bostater cannot provide the moral and emotional environment needed by the three (3) Bostater children at this time nor at any time in the foreseeable future.

25. That Teri Jo (Richards) Bostater has not shown a substantive and continuing change of circumstances and child-rearing ability which would warrant a modification of the dispositional decree heretofore entered by this Court on April 20, 1981, wherein said Teri Jo (Richards) Bostater was found not to be a fit and proper person to have custody of the three (3) orphaned Bostater children.

26. That the Adams County Welfare Department has shown that the objectives of the dispositional decree would not be accomplished by returning said three (3) orphaned Bostater children to the custody of Teri Jo (Richards) Bostater.

27. That Paul and Jane Grube are willing and able to accept custody of all three (3) orphaned Bostater children and are willing and able to care for said children on a permanent basis.

28. That Paul and Jane Grube can and have provided the three (3) orphaned Bostater children with a secure, permanent and loving environment, complete with proper male and female role models.

29. That Paul and Jane Grube's household is a familiar environment to the three (3) orphaned Bostater children and one in which said children can and have adjusted to and have become a part thereof.

30. That the Adams County Welfare Department, the present foster parents of Danny Bostater, Jr., the relatives of the three (3) orphaned Bostater children and Ronald K. Brown and Marilyn Brown favor and request the placement of said children in the custody and control of Paul and Jane Grube on a permanent basis.

31. That Teri Jo (Richards) Bostater's appointment as guardian of the person and estate of said three (3) orphaned Bostater children was not in compliance with I.C. 29-1-18-1 et seq.

32. That Teri Jo (Richards) Bostater does not qualify as a suitable person to be guardian of the person and estate of the three (3) orphaned Bostater children, nor does she have preference to serve

in such capacity, as specifically required and set forth in I.C. 29-1-18-9 and I.C. 29-1-10-1.

Conclusions Thereon

1. This Court has jurisdiction over both the above-captioned juvenile cause and the above-captioned guardianship cause, as well as jurisdiction over the parties therein.

2. With regard to the petition for modification of dispositional decree filed by Teri Jo (Richards) Bostater in the juvenile cause, the law is with the Adams County Welfare Department and the intervening Browns and against Teri Jo (Richards) Bostater.

3. With regard to the petition for removal of Teri Jo (Richards) Bostater as guardian by Ronald K. Brown and Marilyn Brown in the guardianship cause, the law is with Ronald K. Brown and Marilyn Brown and against Teri Jo (Richards) Bostater.

4. With regard to both of the above-captioned causes, Teri Jo (Richards) Bostater is not a fit and proper person, suitable to have the care, custody and control of Danny Bostater, Jr., Teresa Bostater and Misty Bostater and thus, pursuant to I.C. 31-6-4-19 and I.C. 29-1-18-25, said children should not be returned to Teri Jo (Richards) Bostater and Teri Jo (Richards) Bostater should be removed as guardian of both the person and estate of said children.

5. With regard to both of the above-captioned causes, pursuant to I.C. 31-6-4-16(a)(1) and (e)(4) and I.C. 29-1-18-26, it is in the best interest of Danny Bostater, Jr., Teresa Bostater and Misty Bostater that Paul and Jane Grube be awarded custody of said children and be appointed as successor-co-guardians of the person and estate of said children.

Judgment

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that Teri Jo (Richards) Bostater be and hereby is denied the return of Danny Bostater, Jr., Teresa Bostater and Misty Bostater to her custody.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Teri Jo (Richards) Bostater be and hereby is removed as guardian of the person and estate of Danny Bostater, Jr., Teresa Bostater and Misty Bostater.

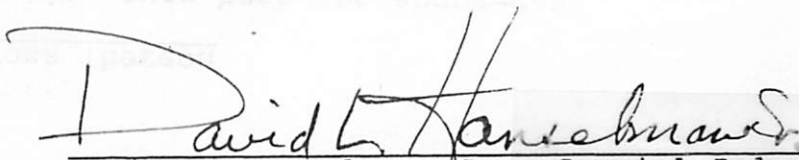
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Paul and Jane Grube be and hereby are awarded custody of Danny Bostater, Jr., Teresa Bostater and Misty Bostater, and be and hereby are appointed as successor-co-guardians of the person and estate of said children.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of the Adams Circuit Court be and hereby is directed to issue Letters of Guardianship of the person and estate of Danny Bostater, Jr., Teresa Bostater and Misty Bostater to Paul and Jane Grube upon the giving of their acceptance and oath to carry out their duties as said co-guardians and upon the posting of a surety bond in the sum of One Thousand Dollars (\$1,000.00) ensuring said performance.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of the Adams Circuit Court be and hereby is directed to issue a certified copy of these findings, conclusions and judgment to Teri Jo (Richards) Bostater, 516 Short Street, Decatur, Indiana 46733; to her counsel, DuWayne Herman of Smith, Burry & Herman, 113 North Second Street, Decatur, Indiana 46733; to the Adams County Department of Public Welfare, 804 Mercer Avenue, Decatur, Indiana 46733; to its attorney, Frederick A. Schurger of Schurger & Schurger, 119 South Second Street, Decatur, Indiana 46733; to Ronald K. Brown and Marilyn Brown, 1692 Erway Road, Hastings, Michigan 49058; and to their counsel, Timothy E. Baker of DeVoss, Scott, Johnson & Baker, a Professional Corporation, 147 South Second Street, Decatur, Indiana 46733; by first class United States Mail for their information and appropriate action.

All of which is ordered this 25 day of July, 1982.

JUDGMENT ACCORDINGLY.


David L. Hanselman, Sr., Special Judge
Adams Circuit Court