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RECENT CASE ON GRANDPARENT CUSTODY

IN THE MATTER OF RONALD I. ET. AL.
 V. JAMES J. ET. AL.

53 A.D. 3d 706, 861 N.Y.S. 2d (3rd Dept 2008)

The Appellate Court upheld an earlier decision of the Family Court in awarding the paternal grandfather and the child's *step-grandmother* custody of the child. This is notable because it is less common for the Court to grant custody to a step-parent. The Court held that the mother voluntarily relinquished the child's care



to the grandparents and there was evidence that she lacked the stability, skills and resources to address the child's special needs. The Court concluded that it was in the child's best interests to be placed with his grandparents due to several factors including, the grandparents maintenance of stability for the child, the child's wishes, the grandparents home environment, their past performance and relative fitness, their ability to provide for the child's overall well being, and their willingness to foster a positive relationship between the child and the mother. ∞

SUMMARY OF THE THIRD NAT'L GRANDRALLY CONFERENCE FOR GRANDPARENTS AND KINSHIP CAREGIVERS: MAY 2008

By John Virdone, Associate Attorney

One of my special areas of interest and fulfillment in family law has been to assist in the rights of Grandparents and Kinship Caregivers. On May 6th & 7th, 2008, I attended the 3rd National GrandRally for Grandparents and Kinship Caregivers Rights, held in Washington D.C. The Convention was well attended with hundreds of caregivers from many States. On May 6th, there were many events organized throughout D.C., including a variety of legal seminars providing information to grandparents and other kinship caregivers regarding custody rights, visitation rights and kinship grants. In the morning, I attended a workshop given at AARP's headquarters. Much of the discussion centered on federal and state funding for caregivers, and how it varies by state. In the afternoon, I attended several seminars sponsored by the National Committee of Grandparents for Children's Rights (NCGCR). Here, I met with Mr. Gerard Wallace, Esq., Director of the NYS Kinship Navigator Program and a professor at Albany Law School. As an expert on kinship care grants, Mr. Wallace addressed many questions on the topic of funding, public assistance and recent legal developments.

After a full day, I proceeded to the GrandRally Dinner at the Washington Marriott with the prominent leaders of many Grandparent and Kinship care organizations from across the country. Among those honored for their work and dedication to the cause was *Brigitte Castellano*, Executive Director of NCGCR. Specifically, she was acknowledged for her well-deserved and unwavering commitment to advancing grandparents' rights. (Continues on reverse side)

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GRANDRALLY

(Continued from cover page)

On May 7th, the actual Rally was held on the steps of the U.S. Capitol in D.C., where leaders, legislators, grandparents, and grandchildren raised by grandparents spoke to an audience of several hundred people. Of special interest were speeches from adults who had been cared for by their grandparents, and who had benefited greatly from the devotion and sacrifices made on their behalf. After the rally, I attended a conference hosted by Senator Hillary Clinton's office, which took place in the U.S. Senate building. The Senator has been a prominent advocate for sponsoring federal legislation in support of grandparent and kinship care grants. Several of her staff met with attendees to discuss the issues needed in legislation.

The GrandRally was an extremely successful event. I was pleased to meet and speak with many leaders, grandparents, and kinship caregivers from all over the country. This exchange of experiences, information and ideas was invaluable to the work ahead for all of us involved in this important cause. I look forward to the next rally, which is scheduled to take place in the spring of 2010. ∞

Spotlight on our Attorneys:

JOHN VIRDONE



John recently assisted a Colorado grandmother obtain full custody of her nine-month old grandson. The child's mother had a long history of drug abuse and mental illness. In fact, in 2007, she was convicted of

drug possession, and while incarcerated, she became aware that she was pregnant. The child was born in a prison hospital, and the mother and child were released from prison the following December. Thereafter, they moved in with relatives on Long Island. Nevertheless, soon after her release, the mother began using drugs again and often left the child with her relatives. At times, the mother would take the child with her to obtain drugs, returning at 3 or 4 in the morning. At this point, since the child was being neglected, the maternal grandmother who resides in Colorado called CPS. A neglect proceeding was commenced and CPS removed the child from his mother, temporarily placing him with his great-grandparents on Long

FINANCIAL SOLUTIONS FOR GRANDPARENTS SEEKING CUSTODY OR VISITATION

A grandparent faced with a custody or visitation issue may need additional resources to assist their efforts. One alternative is a **reverse mortgage**. This is a special type of home loan that lets a homeowner convert a portion of the equity in his or her home into cash. The equity built up over years of home mortgage payments can be paid directly to you. Unlike a traditional home equity loan or second mortgage, no repayment is required until the borrower no longer uses the home as their principal residence.

To be eligible for a reverse mortgage, the borrower must:

- be a homeowner 62 years of age or older;
- own your own home outright or have a low mortgage balance that can be paid off at the closing with proceeds from the reverse loan; and
- must live in the home.

Your home must be a single family dwelling or a two-to-four unit property that you own and occupy. Townhouses, detached homes, units in a condominium and some manufactured homes are eligible.

With a typical second mortgage or a home equity line of credit, you must have sufficient income-versus-debt ratio to qualify for the loan, and are required to make monthly mortgage payments. *The reverse mortgage is different in that it pays you, and is available regardless of your current income.* The amount you can borrow depends on your age, the current interest rate, and the appraised value of your home or FHA's mortgage limits for your area, whichever is less. Generally, the more valuable your home, the older you are, the lower the interest, the *more* you can borrow. You don't make payments, because the loan is not due as long as the house remains your principal residence. Like all homeowners, you are still required to pay your real estate taxes and other standard payments like utilities, but with a reverse mortgage, you cannot be foreclosed or forced to vacate your house because of a missed mortgage payment, as there are no mortgage payments. ∞

Island. The grandmother filed her own custody petition with John's assistance. Finally, custody was awarded to the child's grandmother in August, 2008. Since then, the child has been residing in Colorado and is doing extremely well. However, in September, 2008, the child's purported father filed a paternity proceeding in New York seeking to be officially declared the father. This individual is allegedly a drug dealer and drug user. John believes his action is a prelude to a future challenge to the grandmother's custody. John will be ready to defend the grandmother's custody against any such challenge. ∞

John Virdone, An Associate of the firm, is admitted to the New York and New Jersey Bars. His multifaceted background in complex civil litigation, real estate and business law gives him a unique ability to manage intricate matrimonial and grandparental cases requiring the expertise of crossover disciplines. Mr. Virdone concentrates on parental and grandparental rights, child support and family offense disputes. If you have any questions about family law issues, or wills, trusts, estates and elder law planning, please call John at 516-773-8300 or email him at info@lawjaw.com, and he will be glad to discuss any of your concerns.