

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF MINNEHAHA)

IN CIRCUIT COURT

SECOND JUDICIAL CIRCUIT

IN THE MATTER OF THE
GUARDIANSHIP OF [REDACTED]
[REDACTED],

A minor person.

GDN. 19-

**PETITION FOR
APPOINTMENT OF GUARDIAN
OF A MINOR**

Petitioner, [REDACTED], seeking appointment as guardian, but not conservator, of the above-named minor, respectfully represents to the Court as follows:

1. Petitioner represents the following information regarding himself:

Name: [REDACTED]
Place of Residence: [REDACTED], SD [REDACTED]
Post Office Address: Same
Date of Birth: [REDACTED]
Occupation: [REDACTED]
Relationship to Individual in Need of Protection: Brother

2. Petitioner represents the following information regarding the minor in need of protection:

Name of Person in Need of Protection: [REDACTED]
Date of Birth: [REDACTED]
Place of Residence: [REDACTED], SD [REDACTED]
Post Office Address: Same
Current Address: Same

3. The names and post office addresses of [REDACTED] nearest relatives are as follows:

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>ADDRESS</u>
[REDACTED] [REDACTED]	Mother	Deceased.
[REDACTED]	Father	Unknown, last known address in [REDACTED] [REDACTED] Guatemala ¹
[REDACTED]	Brother	[REDACTED] [REDACTED] SD [REDACTED]
[REDACTED]	Sister	Unknown, last known address in [REDACTED] [REDACTED] Guatemala
[REDACTED]	Brother	Unknown, last known address [REDACTED] [REDACTED] Guatemala
[REDACTED]	Brother	Unknown, last known address in [REDACTED] [REDACTED] Guatemala
[REDACTED]	Brother	Unknown, last known address in [REDACTED] [REDACTED] Guatemala

The current address for Petitioner's father, [REDACTED], is unknown. [REDACTED] abandoned the family when Petitioner was age ten (10) or eleven (11) and has never returned or contacted the family since then. The current address for Petitioner's adult siblings is also unknown. However, Petitioner asserts that the adult siblings have never shown interest in supporting [REDACTED].

¹ The address system used in this area of Guatemala does not include street names. Instead, the recipient's name is used and followed by the address information provided above.

4. [REDACTED] moved to Sioux Falls October 13, 2018 to live with Petitioner in an effort to escape the long history of abuse and neglect she suffered in Guatemala.

5. [REDACTED]'s father, [REDACTED] abandoned her and her family when Petitioner was ten (10) or eleven (11), over fifteen (15) years ago. The family understood that their father left with another woman and neither [REDACTED] nor Petitioner have heard from [REDACTED] since then. Petitioner has no address for [REDACTED] and has no way to contact him.

6. [REDACTED]'s mother, [REDACTED] died from pneumonia when [REDACTED] was age six (6), on June 10, 2010. (See [REDACTED]'s Certificate of Birth submitted as Exhibit A and [REDACTED] Death Certificate submitted as Exhibit B attached hereto and made a part hereof.)

7. After [REDACTED]'s mother passed away, there was only one person who agreed to care for [REDACTED]. [REDACTED] She used to be Petitioner's mother's friend.

8. Education has always been important to [REDACTED]. Petitioner was sending money to [REDACTED] to care for [REDACTED] and pay for her to go to school. [REDACTED] began living with [REDACTED]'s family in 2010, when she was 6 years old. [REDACTED] attended school during her first two years of living there. When she was about 8 years old, [REDACTED] forced her to begin working in the family's cantina. [REDACTED] stopped attending school to do so. She described her role in the cantina as "like a servant." [REDACTED] worked long days, from about 4:00 am to 9:00 pm. [REDACTED] her husband, and her children would beat [REDACTED] to make her work. They used their hands, cables, and belts to hit her on her back, arms, and feet, often leaving bruises. They would also withhold food. This happened almost every day from when she was about 8 years old until she fled when she was 14 years old. [REDACTED]'s work was unpaid until years later in small payments

[REDACTED] suffered abuse and neglect as a result of lacking any parent who would care for and supervise her. Reunification with [REDACTED]'s mother is not viable due to death, a similar basis to abuse, neglect, or abandonment because [REDACTED]'s mother died on June 10, 2010.

19. It is not in [REDACTED]'s best interests to be returned to Guatemala, her and her parents' country of nationality and last habitual residence, and it is in [REDACTED]'s best interests to remain in South Dakota with Petitioner as her legal guardian. There has been harmful parental misconduct by [REDACTED]'s father because he abandoned [REDACTED] when she was very young. [REDACTED] has no caregiver available to her in a safe home in Guatemala, and would be forced to return to an abusive home if she returned to Guatemala. [REDACTED]'s preference is to live with the Petitioner. The Petitioner is fit, able to provide a stable home environment, and will also provide consistency to [REDACTED] because Petitioner has been the primary caretaker of [REDACTED] since October 13, 2018. It is in [REDACTED]'s best interests to remain in South Dakota with Petitioner.

20. Pursuant to SDCL § 29A-5-208, Petitioner requests findings of fact and conclusions of law for his appointment as guardian. Petitioner requests the court make special findings laid out in sections 17-19 herein as well as an order for guardianship. Petitioner will provide a proposed order and findings of fact and conclusions of law for the Court's convenience at the hearing on this matter.

21. Appointing Petitioner as guardian for [REDACTED] is proper for all of the reasons set forth in this Petitioner, including but not limited to the following:

- a) Petitioner provides for [REDACTED] and has provided a stable home for [REDACTED] to live without fear of physical and emotional abuse.

- b) Petitioner agreed to take reasonable steps to acquire legal guardianship or custody in the Office of Refugee Resettlement agreement with the US Department of Health and Human Services.
- c) In order for [REDACTED] to get a passport for identification, the Guatemalan Consulates will require signed parental consent of both parents to get a passport for minors unless she obtains a court order for guardianship.
- d) [REDACTED] was abandoned by her father, left behind due to her mother's death, and abused and neglected by her former caretakers. She is alone in a new country and needs a stable guardian who can protect her from abuse, abandonment, and neglect.
- e) Petitioner would be able to provide medical insurance and healthcare for [REDACTED].
- f) Petitioner would be able to provide financial aid for college.
- g) [REDACTED], as a minor over the age of fourteen, desires to nominate Petitioner as permanent guardian pursuant to SDCL § 29A-5-202.
- h) As a matter of South Dakota law, Petitioner believes that South Dakota would find that this guardianship petition is in the best interest of [REDACTED] pursuant to SDCL § 29A-5-201-210 (the minor statutes) in this situation, namely one in which she does not speak English fluently, is still enrolled in high school, will likely be subjected to further abuse and abandonment in Guatemala, and is dependent on Petitioner.

WHEREFORE, the Petitioner requests the Court set a time and place for hearing; notice be given as provided by law; the Court issue an Order granting guardianship in favor of [REDACTED]; and letters of Guardianship be issued without bond.

(Remainder of page intentionally left blank; signature pages follow)

Dated at Sioux Falls, South Dakota, this 18th day of April, 2019.

[REDACTED]

STATE OF SOUTH DAKOTA)
 : ss
COUNTY OF MINNEHAHA)

The contents of this affidavit were read to me in the language of Spanish. I, [REDACTED], upon my oath state that I understand the foregoing Petition and knows the contents the best of my knowledge, information and belief.

[REDACTED]

[REDACTED]



[REDACTED] subscribed and sworn to before me this 18th day of April, 2019.

[REDACTED]

Notary Public - South Dakota
My commission expires: [REDACTED]

CERTIFICATE OF INTERPRETATION

I, [REDACTED], am competent to translate and interpret from Spanish into English and English into Spanish and certify that I have read this entire document to the affiant in Spanish and that the affiant stated that he understood the document before he signed it.

Dated at Sioux Falls, South Dakota, this 18th day of April, 2019.

[REDACTED]