*Guardianship of Tara*, No. 18-P-1531, January 29, 2020 (Ditkoff, J.) [[slip opinion](https://www.mass.gov/files/documents/2020/01/29/b18P1531.pdf)]

Summary by Katy Krywonis, CAFL Training Unit

Tara and Hillel were in DCF custody pursuant to a C&P. Their grandmother filed petitions for guardianship of them. Both children and their parents supported her request for guardianship. The judge denied the grandmother’s petitions, leaving Tara and Hillel in DCF custody. The children and father appealed, but the grandmother did not. The Appeals Court concluded that it could not provide any relief because the grandmother was not a party to the appeal and dismissed. Citing G.L. c. 190B, § 5-206(c), which limits appointment as guardian to a “qualified person [who] seeks appointment,” the Appeals Court explained that it appears the grandmother accepted the denial of her request and no longer seeks appointment as guardian; she cannot be forced to assume guardianship of the children. Without the grandmother’s continued involvement in the guardianship case, there is nothing for the Juvenile Court to consider on remand. The Appeals Court further noted that the parents and children remain parties to the C&P and can continue to litigate placement in that case.

*Practice tip*: This decision cautions that it is not enough for a parent or child to appeal the denial of a petition for guardianship. The Appeals Court’s reasoning suggests it doesn’t matter who filed the petition; the prospective guardian must be a participant in the appeal. If you represent a parent or child who appeals the denial of a guardianship petition, you need to make sure that the prospective guardian files their own notice of appeal *and* gives some notice to the Appeals Court, even if by letter, that they are still interested in taking guardianship of the child. The prospective guardian may explain to the Appeals Court that they are not filing a brief because they do not have counsel, or they may adopt or join in the brief of another appellant.