

1

CHARLES BECKFORD, Appellant,
v.
DONNA BECKFORD as the Plenary
Guardian of Wayne Astor Beckford,
Appellee.

No. 2D22-1405

Florida Court of Appeals, Second District

August 11, 2023

Appeal from the Circuit Court for Pinellas
County; Pamela A. M. Campbell, Judge.

Charles Beckford, pro se.

Hamden H. Baskin, III, and Jeffrey A. Eisel
of Baskin Eisel Rightmyer, Clearwater, for
Appellee.

SMITH, JUDGE.

Appellant, Charles Beckford, challenges that
portion of the lower court's order appointing
Donna Beckford, the wife of his father Wayne
Beckford (the Ward), as guardian and declining to
grant his competing petition to appoint the
Ward's sister as guardian. Because the plain
language of section 744.309(3), Florida Statutes
(2020), disqualifies *any* individual with a felony
conviction from being appointed guardian, the

2

trial court erred in granting Donna Beckford's
petition for appointment as guardian. We reverse
on this issue, finding it dispositive.^[1]

After the Ward suffered an aneurysm in June
2020, Charles Beckford filed a Petition to
Determine Incapacity and then a Verified
Emergency Motion to Appoint Temporary
Guardian and Later Appoint Emergency
Guardian, requesting that he be appointed as the
Ward's guardian and asserting that Donna
Beckford was not qualified to be guardian. His
request for emergency relief was denied.

Donna Beckford, who has been married to
the Ward since 2003, filed a Response and
Counterpetition for Appointment of Plenary
Guardian requesting that she be appointed her
husband's guardian. Along with her Response and
Counterpetition, she filed an application for
appointment as guardian, in which she
acknowledged that twenty-seven years prior she
had been convicted of felony battery on a law
enforcement officer, for which she was sentenced
to six months' probation. Based upon this
disclosure, Charles Beckford filed a motion to
disqualify Donna Beckford as a potential
guardian, arguing among other things that section
744.309(3) barred any person convicted of a
felony from being appointed as a guardian. Later,
in March 2022, Charles Beckford filed a petition
for the appointment of the Ward's sister as
guardian.^[2]

3

Following a two-day final hearing on the
competing petitions, the trial court adjudicated
the Ward incapacitated and appointed his wife,
Donna Beckford, as sole guardian. The court
found that Donna Beckford had not accurately
answered the application questions relating to her
prior criminal record.^[3] However, the court stated
that despite the disqualifying language in section
744.309(3), it had discretion under section
744.312 to appoint Donna Beckford as guardian.
After weighing Donna Beckford's criminal record,
her testimony explaining this record, and her past
drug addiction together with the evidence that she
holds her CNA license and operates a successful
home health care business, which supported the
Ward and allowed the Ward to remain home for
his therapy, the trial court concluded that Donna
Beckford did not represent any danger to the
Ward. Ultimately, the trial court appointed Donna
Beckford as guardian, and this appeal followed.

Charles Beckford argues that the trial court
erred in appointing Donna Beckford as the Ward's
guardian because her prior felony conviction
alone disqualifies her from appointment under
section 744.309.

"Questions of statutory interpretation are subject to de novo review." *Mendenhall v. State*, 48 So.3d 740, 747 (Fla. 2010) (citing *Heart of Adoptions, Inc. v. J.A.*, 963 So.2d 189, 194 (Fla 2007)).

Section 744.309(3) states, "No person who has been convicted of a felony . . . shall be appointed to act as guardian." (Emphasis added.) This language standing alone is sufficient to disqualify Donna Beckford as guardian.

However, Donna Beckford argues that section 744.312, which governs "[c]onsiderations in appointment of [a] guardian," states that a court is required to "[i]nquire into and consider potential disqualifications under [section] 744.309" and that because the disqualifications under section 744.309 are referred to as "potential," the court is only required to "consider" these "potential" disqualifications in its determination. *See* § 744.312(3)(e). In other words, she argues that a prior felony conviction is not an absolute bar to appointment but rather only a "potential" bar that the trial court must merely consider when appointing a guardian.

In arguing that the compulsory bar in section 744.309(3) should be read as a discretionary bar due to the "potential" language in section 744.312(3)(e), Donna Beckford essentially asks this court to read these two sections in *pari materia* and give the clear felony disqualification in section 744.309(3) a completely different meaning. "Admittedly, little judicial analysis exists" on the interpretation of these statutes. *See Koshenina v. Buvens*, 130 So.3d 276, 282 (Fla. 1st DCA 2014). But "the '*in pari materia*' canon of statutory construction would be appropriate only if we found the statute ambiguous," which we do not. *See Brown v. State*, 848 So.2d 361, 364 (Fla. 4th DCA 2003).

Here, subsections 744.309(1)-(2) and (4)-(7) plainly identify those parties who may be appointed guardian of a ward. Subsection

744.309(3) on the other hand identifies "Disqualified persons" who "shall" be disqualified and those parties who "may" be disqualified. As to persons convicted of a felony, section 744.309(3) unequivocally states "No person who has been convicted of a felony . . . shall be appointed to act as guardian. . . ." (Emphasis added.) Because section 744.312(3)(e) directs that a court "inquire into and consider *potential disqualifications* under [section] 744.309," when a guardian cannot be appointed under section 744.312(1), a court is required to determine whether potentially disqualifying factors, such as a felony conviction, do in fact exist. (Emphasis added.) It does not direct the court to weigh the felony conviction against other factors and determine whether the court, in its discretion, deems the party disqualified, as the trial court did in this case. To read the statute otherwise would render meaningless the unambiguous felony conviction disqualification in section 744.309(3)- and lead to an impermissible construction of the statute. *See Palm Beach Cnty. Canvassing Bd. v. Harris*, 772 So.2d 1273, 1286 (Fla. 2000) ("Courts should construe statutes to give effect to all provisions, and not to render any part meaningless."). Further, neither section 744.309 nor 744.312 provides a mechanism for an applicant, including a spouse, to seek an exemption from the mandatory disqualification.

Accordingly, because section 744.309(3) unambiguously states that persons with felony convictions "shall [not] be appointed to act as guardian," Donna Beckford is disqualified from appointment as guardian, and the trial court erred in its interpretation of section 744.312. We therefore reverse that portion of the order appointing Donna Beckford as guardian of the Ward.

Reversed.

Opinion subject to revision prior to official publication.

MORRIS and BLACK, JJ., Concur.

Notes:

[1] To the extent that Charles Beckford argues that the trial court erred in not granting his petition for appointment of the Ward's sister as guardian, we note that the trial court's order on appeal is silent as to any findings concerning Charles Beckford's petition to appoint the Ward's sister. We do not have a sufficient record to determine whether the trial court erred in that respect. And so, it follows that nothing herein shall be construed as reaching the merits of that petition.

[2] Charles Beckford initially sought to have himself and the Ward's sister appointed as coguardians, but he withdrew himself from that petition and now only seeks to have the Ward's sister appointed guardian.

[3] Prior to her marriage to the Ward, between 1991 and 1998, Donna Beckford engaged in criminal activity and had a drug addiction. She admitted that she relapsed in 2008 due to pain medication while she was under the care of her doctor. She presently has a home health care business and holds a CNA license-having successfully been granted an exemption in 2011 for her criminal record by the Agency for Health Care Administration and the Board of Nursing. *See* § 435.07, Fla. Stat. (2011).
