

NJ Laws Newsletter E429

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1. Selecting A Guardian in Your Will for Minor Children

If you have minor children, the most important reason to plan your estate is to ensure proper provisions are made for your children. While it can seem overwhelming to deal with all the issues involved, consider what would happen if you died with no provisions. At that point, your children's guardian would be determined by the courts and there may not be adequate funds available until they reach adulthood, leaving them dependent on the goodwill of relatives. If you have grand children, remind your children to have a Will setting forth who is first and second proposed guardians.

When selecting a guardian, consider the following:

Who would be the best guardian for your children?

While your first inclination may be to select your parents, consider whether they will have the energy to raise your children. A better alternative may be a sibling or friend. One of your most important considerations will be whether you think that individual will be able to raise your child like one of their own. If you have several children, is it reasonable to expect one person to raise all of them? You may want to name more than one guardian, but make sure the guardians will work together to keep

the children as close as possible. If the person you are considering lives in another city or state, consider whether you want to uproot your children while they are going through the trauma of their parents' death. Make sure you're comfortable with the guardian's parental style and moral beliefs.

Have you talked to your selected guardian? Once you've settled on a guardian, discuss your decision with that person to make sure he or she is willing to take on the responsibility? Be sure to name a contingent guardian in case your first choice is unable to serve. Discuss your wishes regarding how you want your children raised, indicating your preferences for education, religion, lifestyle, and other factors.

Have you made adequate financial arrangements for your children? You wouldn't want your children to be a financial burden, or their presence may be resented. Determine how much is needed for living expenses, hobbies, medical expenses, and college. Consider other items as well. For instance, will your guardian's home comfortably accommodate your children, or should you leave funds for an addition to the home? Include a financial cushion so there is plenty of money until your children at least reach adulthood. Should the person who has physical custody also handle their finances? You can name two guardians, one for physical custody and one to handle their

finances. Decide whether trusts should be set up and how money should be distributed when your children reach adulthood.

Have you reviewed your choice of guardian recently? Just because you've selected a guardian doesn't mean that person is still the best choice. As your children grow, review your guardian choice every couple of years.

SOURCE: kbowman@bizactions.com

2. Arrest warrant limits search to immediate area of premises. *Bailey v. United States* 133 S. Ct __ (2013)

While police were preparing to execute a warrant to search a basement apartment for a handgun, detectives conducting surveillance in an unmarked car outside the apartment saw two men later identified as petitioner Bailey and Bryant Middleton leave the gated area above the apartment, get in a car, and drive away. The detectives waited for the men to leave and then followed the car approximately a mile before stopping it. They found keys during a putdown search of Bailey, who initially said that he resided in the apartment but later denied it when informed of the search. Both men were handcuffed and

driven in a patrol car to the apartment, where the search team had already found a gun and illicit drugs. After arresting the men, police discovered that one of Bailey's keys unlocked the apartment's door.

At trial, the District Court denied Bailey's motion to suppress the apartment key and the statements he made to the detectives when stopped, holding that Bailey's detention was justified under Michigan v. Summers, 452 U.S. 692, as a detention incident to the execution of a search warrant, and, in the alternative, that the detention was supported by reasonable suspicion under Terry v. Ohio, 392 U.S. 1. Bailey was convicted. Held: The rule in Summers is limited to the immediate vicinity of the premises to be searched and does not apply here, where Bailey was detained at a point beyond any reasonable understanding of the immediate vicinity of the premises in question.

3. Double jeopardy bars new trial after mid-trial acquittal. Evans v. Michigan 133 S. Ct. 1069 (2013)

When the State of Michigan rested its case at petitioner Lamar Evans' arson trial, the court entered a directed verdict of acquittal, based upon its view that the State had not provided sufficient evidence of a particular element of the offense. It turns out that the unproven "element" was not

actually a required element at all. We must decide whether an erroneous acquittal such as this nevertheless constitutes an acquittal for double jeopardy purposes, which would mean that Evans could not be retried. This Court has previously held that a judicial acquittal premised upon a "misconstruction" of a criminal statute is an "acquittal on the merits . . . [that] bars retrial." Arizona v. Rumsey, 467 U.S. 203, 211 (1984). Seeing no meaningful constitutional distinction between a trial court's "misconstruction" of a statute and its erroneous addition of a statutory element, we hold that a midtrial acquittal in these circumstances is an acquittal for double jeopardy purposes as well

4. Fun Upcoming Running Races Charity events Selected by Kenneth Vercammen

If you are attending any of these charity races, please call or email Ken V. Often we car pool or meet at these events.

<http://vercammensport.blogspot.com/>

10/26 Hoboken 5k 10am Wakefern co-sponsor

10/27 Trick or Trot 5k Long Branch party at Celtic

Cottage after run 2 for 1 drinks

10/29 Freezing Cold Hash Volunteer meeting 6pm
Deal Firehouse Ken will pay for beers.
Sandwiches provided. Volunteers receive free
admission to Freezing Cold Hash and Free Living
Will.

10/30 RVRH Halloween pub-crawl New
Brunswick

11/3 RUN with the VIKINGS 5K 10:00 AM
South Brunswick High School, Bob Tona's good
event

11/10 Hashathon 6.6 Mile Cheesequake
challenging, dangerous trails, free beer, best post
race party with band, 732-542-6090 11am

5. Welcome Fall Law Clerks

Kenneth Vercammen and Associates, P.C. would like
to welcome the following Fall Law Clerks.

Taralyn Stokes currently attends Rutgers' University
and is majoring in Criminal Justice.

Sara Quinlan currently attends Mercer County
Community College as part of their Advanced

Degree in Paralegal Studies.

Geovonna Parker currently attends New Jersey City University and is currently majoring in Criminal Justice.

Antonia Tur currently attends Mercer County Community College and is in the process of obtaining her Paralegal Degree.

Austin Chen is currently a high school senior attending J.P. Stevens High School.

**6. Ken Vercammen's Annual Christmas
Happy Hour**

Friday, December 6, 2013

5:00PM - 7:00PM

at Bar Anticipation

703 16th Avenue

Lake Como/ Belmar, NJ 07719

Free !

5-7PM Hot & Cold Buffet with carving station

The reduced price Happy Hour is 6-7PM with **\$1 House Drink, Bud/BudLt draft & House Wine Special**

Email Ken Vercammen's Law Office so we can put your name on the VIP list for wristbands. VercammenLaw@Njlaws.com

Questions- Call 732-572-0500

Bring a canned food donation for the St. James Food Bank Hands of Hope, continuing providing food and help to individuals in need.