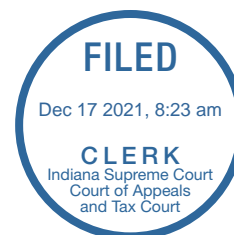


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

In Re the Adoption of: G.B.
T.G.,
Appellant-Respondent,

v.

J.B. and R.B.,
Appellees-Petitioners.

December 17, 2021

Court of Appeals Case No.
21A-AD-909

Appeal from the Hamilton
Superior Court

The Honorable David K. Najjar,
Judge

Trial Court Cause Nos.
29D05-2006-AD-893
29D05-2012-JP-1961

Weissmann, Judge.

[1] When a man believes he is the father of a baby who is or will be born in Indiana, he typically must establish paternity or place his name on the Putative Father Registry if he wishes to oppose the child's later adoption. T.G. (Father) did neither with G.L.B. (Child). Instead, he waited almost two years after Child's birth to assert his paternity. Meanwhile, Child's foster parents, who had cared for Child since he was an infant, petitioned for adoption. Father unsuccessfully opposed the adoption, leading to this appeal. We conclude the trial court properly determined Father impliedly consented to the adoption through his inaction and had no standing to contest it.

Facts

[2] Child was removed from his mother's care immediately after his birth on November 6, 2018. Because the birth certificate named no father, Child became a ward of the state and a few months later, J.B. and R.B. became his foster parents. The State involuntarily terminated the mother's parental rights. While that proceeding was pending in Marion County, J.B. and R.B. (Adoptive Parents) petitioned in Hamilton County to adopt Child in June 2020 when he was about 19 months old.

[3] Three months after the adoption petition was filed in Hamilton County, Father filed a paternity action in Marion County, alleging that he was Child's father. The paternity action later was consolidated into the adoption case in Hamilton County. Subsequent testing conclusively established Father's paternity.

[4] Adoptive Parents sought a determination that Father's consent to the adoption was irrevocably implied by statute, given that he had not established paternity or registered on the Putative Father Registry prior to the filing of the adoption petition. Father responded by seeking a change of venue to Marion County and attempting to contest the adoption. After hearing legal arguments but without holding an evidentiary hearing, the trial court found that Father's failure to register for the Putative Father Registry meant he had no standing to challenge the adoption or file a motion for change of venue. Father appeals.

Discussion and Decision

[5] Father argues that the trial court improperly short-circuited his adoption contest because he was entitled to an evidentiary hearing in a different court. In family law matters, we generally give considerable deference to the trial court's decision, recognizing that the trial judge is in the best position to judge the facts, determine witness credibility, and assess family dynamics, among other things. *E.B.F. v. D.F.*, 93 N.E.3d 759, 762 (Ind. 2018). We will presume the adoption court's decision is correct, examine the evidence in the light most favorable to the court, and impose on the appellant the burden of rebutting that presumption. *Id.* The trial court's findings and judgment will be set aside only if they are clearly erroneous without any reweighing of the evidence or assessing credibility of witnesses. *Id.*

I. Evidentiary Hearing Was Unnecessary

[6] Father contends the trial court was obligated to conduct an evidentiary hearing before determining whether his express consent to the adoption was unnecessary. Father likens the trial court's ruling to summary judgment, which he contends is never appropriate in a child custody determination. But the trial court's ruling was not a child custody determination; it was a determination as to whether Father's consent to the adoption was necessary. And the sole appellate decision upon which Father relies for this argument—*Hemingway v. Sandoe*, 676 N.E.2d 368, 370 (Ind. Ct. App. 1997)—dealt with summary judgment in the post-dissolution custody context, not in an adoption consent dispute. Thus, Father offers no basis for finding that he was entitled to an evidentiary hearing.

[7] Father also never disputed that he failed to place his name on the Putative Father Registry, and that fact alone is dispositive of his claims. He was entitled to notice of the adoption only if he, as Child's putative father, registered with the state department of health by the date Adoptive Parents filed their petition for Child's adoption. Ind. Code § 31-19-5-12.¹ A putative father who fails to

¹ Indiana Code §31-19-5-12 provides in relevant part:

- (a) To be entitled to notice of an adoption under IC 31-19-3 or IC 31-19-4, a putative father must register with the state department of health under section 5 of this chapter not later than:
 - (1) thirty (30) days after the child's birth; or
 - (2) the earlier of the date of the filing of a petition for the:

register within those deadlines waives notice of the adoption proceeding and his consent to adoption is irrevocably implied. Ind. Code § 31-19-5-18. A putative father whose consent to adoption is implied under Indiana Code § 31-19-5-18 is not entitled to challenge either the adoption or the validity of the putative father's implied consent to the adoption. Ind. Code § 31-19-9-13.

[8] Father points to an exception involving cases with maternal consent. *See* Indiana Code § 31-19-5-1(b) (specifying that the statutes in chapter 5—including Indiana Code §§ 31-19-5-12, -13, and -18—do not apply to a putative father under certain circumstances in which the mother consents to the adoption). Child's mother never consented to the adoption, so that exception does not apply here.

[9] Under the applicable statutes, Father's consent to Child's adoption was irrevocably implied when he indisputably failed to place his name on the Putative Father Registry or to establish paternity prior to the filing of the adoption petition. The trial court did not err in finding, without an evidentiary hearing but based on the undisputed facts and the parties' briefs and oral

(A) child's adoption; or

(B) termination of the parent-child relationship between the child and the child's mother;

whichever occurs later.

The child was born in 2018, Adoptive Parents filed their petition to adopt in June 2020, and Mother's parental rights were terminated in late 2020. Therefore, under Indiana Code §31-19-5-12, Father was required to register prior to the filing of the adoption petition in June 2020.

arguments, that Father had no standing to contest the adoption in light of his irrevocably implied consent.²

[10] We affirm the trial court's judgment.

Mathias, J., and Tavitas, J., concur.

[1] ² Father also challenges the trial court's denial of his motion for change of venue. We need not address this issue because Father had no standing to contest the adoption or establish paternity after the petition for adoption was filed; therefore, he had no right to seek a change of venue in that proceeding. *See* I.C. § 31-19-9-13; *In re Adoption of K.G.B.*, 18 N.E.3d 292, 298, 304 (Ind. Ct. App. 2014) (ruling that putative father whose consent to adoption is implied may not challenge adoption or establish paternity); *see also State ex rel. Martin v. Hancock Cir. Ct.*, 112 N.E.2d 578, 580 (Ind. 1953) (finding trial court had authority to deny change of venue filed by individual who was not a party to the proceeding).