MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Riley L. Parr
Lebanon, Indiana

ATTORNEY FOR APPELLEES

Charles P. Rice
Murphy Rice, LLP
Mishawaka, Indiana

IN THE COURT OF APPEALS OF INDIANA

In the Adoption of:

B.Y.N. (Minor Child)

J.C.,

Appellant-Intervenor,

v.

C.K. and D.K.,

Appellees-Petitioners

June 27, 2023

Court of Appeals Case No. 23A-AD-130

Appeal from the Hamilton Superior Court

The Honorable Michael A. Casati, Judge

Trial Court Cause No. 29D01-2112-AD-1891

Memorandum Decision by Judge Mathias
Judges Vaidik and Pyle concur.

Mathias, Judge.

[1] J.C. ("Father"), biological father of B.Y.N. ("Child"), appeals the trial court's order granting the petition to adopt Child that had been filed by C.K. and D.K. ("Adoptive Parents"). Father argues that the trial court erred when it found that his consent to the adoption was irrevocably implied and granted the adoption petition. We affirm.

Facts and Procedural History

[2] On February 25, 2020, Child was born in Kentucky. Child's mother, G.K. ("Mother"), filled out a paternity affidavit with J.N., who purported to be Child's biological father. On March 18, in Perry County,[1] the Department of Child Services filed a petition alleging that Child was a child in need of services ("CHINS"). And on April 1, Child was placed with Adoptive Parents. "Sometime in mid-to-late 2021, [Father] learned that he might be the father of" Child. Appellant's Br. at 7. But Father did not register with the putative father registry at that time. Instead, on October 28, 2021, Father only filed a petition to establish his paternity of Child. On December 28, Adoptive Parents filed a petition to adopt Child.[2]

[3] On April 12, 2022, Adoptive Parents filed a motion for a determination that Father's consent to the adoption petition was irrevocably implied by his failure to register with the putative father registry. In support of that motion, Adoptive

[1] It is unclear when, exactly, Child moved to Indiana.

[2] Father's paternity petition was filed in a different trial court than the adoption petition, but the two were later consolidated.

Parents submitted the affidavit of Evelyn Riley, an administrator of the Putative Father Registry in Indiana, stating that there was no putative father for Child registered with the Indiana State Department of Health. On April 26, the trial court issued an order declaring that Father's consent to the adoption was "irrevocably implied as he failed to register with the Putative Father Registry prior to the filing of the Adoption Petition[.]" Appellant's App. Vol. 2, p. 78.

[4] On July 5, Father filed a motion to dismiss the adoption petition. In support, he submitted a DNA test showing that he is the biological father of Child. And on July 13, Father filed with the trial court his Indiana Putative Father Registration form, which he had just signed the day before, on July 12, more than two years after Child's birth and six months after Adoptive Parents filed their adoption petition. The trial court denied Father's motion to dismiss and subsequently granted the adoption petition. This appeal ensued.

Discussion and Decision

[5] Father contends that the trial court erred when it found that his consent to the adoption was irrevocably implied by his failure to timely register with the putative father registry. Our standard of review is well settled.

> "When reviewing the trial court's ruling in an adoption proceeding, we will not disturb that ruling unless the evidence leads to but one conclusion and the trial judge reached an opposite conclusion." *Rust v. Lawson*, 714 N.E.2d 769, 771 (Ind. Ct. App. 1999). We presume the trial court's decision is correct, and we consider the evidence in the light most favorable to the decision. *Id.* at 771-72.

> When, as in this case, the trial court has made findings of fact and conclusions of law, we apply a two-tiered standard of review: "we must first determine whether the evidence supports the findings and second, whether the findings support the judgment." *In re Adoption of T.W.*, 859 N.E.2d 1215, 1217 (Ind. Ct. App. 2006); *see also* Ind. Trial Rule 52(A) (providing that where the trial court has made findings of fact and conclusions of law, "the court on appeal shall not set aside the findings or judgment unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses."). Factual findings "are clearly erroneous if the record lacks any evidence or reasonable inferences to support them [and] . . . a judgment is clearly erroneous when it is unsupported by the findings of fact and the conclusions relying on those findings." *T.W.*, 859 N.E.2d at 1217.

In re Adoption of T.L., 4 N.E.3d 658, 662 (Ind. 2014).

[6] Indiana Code section 31-19-5-18 provides that "[a] putative father who fails to register within the period specified by section 12 of this chapter waives notice of an adoption proceeding. The putative father's waiver under this section constitutes an irrevocably implied consent to the child's adoption." To comply with Indiana Code section 31-19-5-12, Father was required to register within thirty days of Child's birth or by the date on which Adoptive Parents filed their petition to adopt Child, whichever occurred later.

[7] Here, the trial court found that Father, who had not registered with the putative father registry until more than two years after Child's birth and more than six months after Adoptive Parents had filed their adoption petition, had irrevocably implied his consent to the adoption. On appeal, Father argues that

> no evidence was presented that he failed to timely register[with the putative father registry]. Crucially, the evidence presented to the trial court was the result of a search conducted using the Legal Father's name, J.N., and that as a result of that search no putative father results were found. No results of a search for J.C. were ever submitted to the court. This error is fatal.

Appellant's Br. at 10 (citation omitted). In other words, Father maintains that, because Administrator Riley did not conduct a search using *his* name, her affidavit is not evidence that he had failed to timely register with the putative father registry. Father is mistaken.

[8] First, Father does not cite any relevant authority to support his contention that Administrator Riley was required to search the putative father registry using his name. Indeed, Indiana Code section 31-19-5-8 provides that a putative father can be found by searching only the mother's name or the child's name. And Administrator Riley's affidavit shows that she searched the registry using Mother's name "and/or" Child's name. Appellant's App. Vol. 2, p. 49. Thus, the affidavit is evidence that Father had not timely registered with the putative father registry.

[9] Second, and moreover, in support of his motion to dismiss, Father submitted a copy of his registration with the putative father registry which he had filed on July 12, 2022, more than two years after Child's birth and more than six months after Adoptive Parents had filed their adoption petition. Thus, by Father's own evidence, he did not timely register with the putative father registry. *See* I.C. § 31-19-5-12. And therefore, the trial court did not err when it

determined that he had irrevocably implied his consent to the adoption. *See* I.C. § 31-19-5-18.

[10] For all these reasons, we affirm the trial court's grant of Adoptive Parents' adoption petition.

[11] Affirmed.

Vaidik, J., and Pyle, J., concur.