

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

J.E.,
Appellant-Respondent,

v.

G.G. and S.G.,
Appellees-Petitioners.

May 25, 2022

Court of Appeals Case No.
22A-AD-138

Appeal from the Hamilton
Superior Court

The Honorable Michael A. Casati,
Judge

Trial Court Cause No.
29D01-2108-AD-1229

Tavitas, Judge.

Case Summary

- [1] J.E. (“Putative Father”) appeals the trial court’s grant of summary judgment to G.G. and S.G. (“Adoptive Parents”) regarding Putative Father’s challenge to Adoptive Parents’ petition to adopt the Child. The trial court found that Putative Father’s consent to the adoption was irrevocably implied as a result of his failure to timely register with the putative father registry. Concluding that the trial court properly found that Putative Father’s consent was irrevocably implied and that the trial court properly granted summary judgment, we affirm.

Issue

- [2] Putative Father raises one issue, which we restate as whether the trial court properly found that his consent to the adoption was irrevocably implied and that he could not challenge the adoption.

Facts

- [3] Putative Father and B.W. (“Biological Mother”) were in a relationship from July 2020 through April 2021. Biological Mother became pregnant. Putative Father had concerns as to whether he was the biological father of the child. Biological Mother moved out of Putative Father’s residence in April 2021. Putative Father reached out to Biological Mother again in July 2021 to attempt reconciliation. The Child was born on August 23, 2021, and Putative Father was informed of the Child’s birth “by a mutual friend.” Appellant’s App. Vol. II p. 23. Putative Father was unaware of Mother’s intent to give up the Child for adoption.

- [4] On August 25, 2021, G.G. and S.G. (“Adoptive Parents”) filed a petition to adopt the Child. Biological Mother consented to the adoption and did not identify a putative father.
- [5] Putative Father was unaware of the putative father registry until his sister contacted an attorney on September 27, 2021. On that date, Putative Father filed his putative father registry form regarding the Child. On October 5, 2021, the Indiana Department of Health Putative Father Registry notified Adoptive Parents that Putative Father had registered and that no paternity determination was on file with the department.
- [6] Putative Father filed a paternity action and a request for DNA testing¹ on October 8, 2021. In November 2021, Adoptive Parents filed a motion to consolidate the paternity action with the adoption petition, which the trial court granted. Putative Father then filed a motion to contest the adoption.
- [7] Adoptive Parents filed a motion for summary judgment. Adoptive Parents argued that Putative Father’s consent to the adoption was irrevocably implied pursuant to Indiana Code Section 31-19-5-18 as a result of Putative Father’s failure to timely register with the putative father registry. Putative Father filed a response and argued that Biological Mother did not disclose to Putative Father

¹ Putative Father also filed a motion for DNA testing in the consolidated action. The motion for DNA testing was not addressed by the trial court.

her intent to place the Child for adoption and Putative Father was “a mere two days late” registering with the putative father registry. *Id.* at 32.

- [8] The trial court granted Adoptive Parents’ motion for summary judgment. The trial court found that Putative Father’s consent to the adoption “has been irrevocably implied pursuant to Indiana Code § 31-19-5-18 and Indiana Code § 31-19-9-12(4) as a result of his failure to timely register with the Indiana State Department of Health Putative Father Registry.” *Id.* at 6. Putative Father now appeals.

Analysis

- [9] Putative Father challenges the trial court’s grant of summary judgment to Adoptive Parents. “When this Court reviews a grant or denial of a motion for summary judgment, we ‘stand in the shoes of the trial court.’” *Burton v. Benner*, 140 N.E.3d 848, 851 (Ind. 2020) (quoting *Murray v. Indianapolis Pub. Schools*, 128 N.E.3d 450, 452 (Ind. 2019)). Summary judgment is appropriate “if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Murray*, 128 N.E.3d at 452; *see also* Ind. Trial Rule 56(C).
- [10] The party moving for summary judgment bears the burden of making a prima facie showing that there is no issue of material fact and that it is entitled to judgment as a matter of law. *Burton*, 140 N.E.3d at 851. The burden then shifts to the non-moving party to show the existence of a genuine issue. *Id.* On appellate review, we resolve “[a]ny doubt as to any facts or inferences to be

drawn therefrom . . . in favor of the non-moving party.” *Id.* We review the trial court’s ruling on a motion for summary judgment de novo, and we take “care to ensure that no party is denied his day in court.” *Schoettmer v. Wright*, 992 N.E.2d 702, 706 (Ind. 2013). “We limit our review to the materials designated at the trial level.” *Gunderson v. State, Indiana Dep’t of Nat. Res.*, 90 N.E.3d 1171, 1175 (Ind. 2018), *cert. denied*, 139 S. Ct. 1167 (2019).

A. Putative Father Registry

[11] Indiana established the putative father registry in 1994.² *In re Adoption of K.G.B.*, 18 N.E.3d 292, 296 (Ind. Ct. App. 2014); *see also* Ind. Code Chapter 31-19-5. A “putative father” for purposes of the adoption statutes means a male who is alleged to be or claims that he may be a child’s father but who is not statutorily presumed to be the child’s father and has not established paternity before the filing of an adoption petition. Ind. Code § 31-9-2-100.

[12] Statutes governing registration on the putative father registry apply whenever:

(1) an adoption under IC 31-19-2 has been or may be filed regarding a child who may have been conceived by the putative father; and

(2) on or before the date the child’s mother executes a consent to the child’s adoption, the child’s mother has not disclosed the

² The purpose of the putative father registry “is to provide notice to a putative father that a petition for adoption has been filed.” *K.G.B.*, 18 N.E.3d at 297.

name or address, or both, of the putative father to the attorney or agency that is arranging the child's adoption.

I.C. § 31-19-5-1(a). The putative father registry statutes do not apply, however, “if, on or before the date the child’s mother executes a consent to the child’s adoption, the child’s mother discloses the name and address of the putative father to the attorney or agency that is arranging the child’s adoption.” I.C. § 31-19-5-1(b).

If, on or before the date the mother of a child executes a consent to the child’s adoption, the mother does not disclose to an attorney or agency that:

(1) is arranging; or

(2) may arrange;

an adoption of the child the name or address, or both, of the putative father of the child, the putative father must register under this chapter to entitle the putative father to notice of the child’s adoption.

I.C. § 31-19-5-5 (emphasis added). A mother does not have a duty to disclose a putative father’s name and address. *See, e.g., In re Adoption of J.D.C.*, 751 N.E.2d 747, 751 n.2 (Ind. Ct. App. 2001); *In re Paternity of Baby Doe*, 734 N.E.2d 281, 287 (Ind. Ct. App. 2000); *K.G.B.*, 18 N.E.3d at 299.

[13] To be entitled to notice of an adoption, a putative father must register with the putative father registry no 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:

(A) child's adoption; or

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

whichever occurs later.

I.C. § 31-19-5-12(a). Additionally, "[a] putative father may register under subsection (a) before the child's birth." I.C. § 31-19-5-12(b).

[14] "A putative father who fails to register within the period specified by [Indiana Code Section 31-19-5-12(a)] *waives notice* of an adoption proceeding. The putative father's waiver under this section constitutes *an irrevocably implied consent* to the child's adoption." I.C. § 31-19-5-18 (emphasis added); *see also* [I.C. § 31-19-9-12](#) ("A putative father's consent to adoption is irrevocably implied without further court action if the putative father . . . (4) is required to but fails to register with the putative father registry established by IC 31-19-5 within the period under IC 31-19-5-12."). Further, a putative father "whose consent to adoption is irrevocably implied under . . . IC 31-19-5-18 is not entitled to challenge: (1) the adoption; or (2) the validity of the putative father's implied consent to the adoption." I.C. § 31-19-9-13. Finally, "[a] putative father whose consent to adoption of a child is implied under this chapter or IC 31-19-5-18 is

not entitled to establish paternity of the child, by affidavit or otherwise, in Indiana or any other jurisdiction.” I.C. § 31-19-9-14.

B. Trial Court’s Grant of Summary Judgment to Adoptive Parents

- [15] Putative Father argues that the trial court erred by granting summary judgment to Adoptive Parents regarding Putative Father’s consent to the adoption. Biological Mother disclosed neither the name nor address of Putative Father. Accordingly, the putative father registry statutes are applicable here. Putative Father was, thus, required to register within “(1) thirty (30) days after the child’s birth; or (2) the earlier of the date of the filing of a petition for the: (A) child’s adoption; or (B) termination of the parent-child relationship between the child and the child’s mother; whichever occurs later.” I.C. § 31-19-5-12(a).
- [16] It is undisputed that Putative Father failed to meet the statutory deadline to register. The Child was born on August 23, 2021; Adoptive Parents filed a petition to adopt the Child on August 25, 2021; and Putative Father did not register with the putative father registry until September 27, 2021. Under Indiana Code Section 31-19-5-12(a), Putative Father was required to register within thirty days after the Child’s birth. Putative Father’s September 27, 2021 registration was more than thirty days after the Child’s birth and, thus, was untimely. Pursuant to Indiana Code Section 31-19-5-18, Putative Father waived notice of the adoption proceedings and his consent to the Child’s adoption was “irrevocably implied.” Accordingly, Putative Father is not entitled to challenge the adoption. Moreover, Putative Father is prohibited from establishing paternity.

[17] Although Putative Father points out that he was unaware of the registry, that he missed the registration deadline by only a few days, and that he filed a paternity action, our Court has repeatedly upheld the application of the putative father registry statutes. *See, e.g., K.G.B.*, 18 N.E.3d at 299 (holding that the putative father failed to timely register, that he was barred from contesting the adoption of the child, and that he failed to demonstrate a due process violation); *J.D.C.*, 751 N.E.2d at 751 (holding that the putative father was not entitled to notice of the adoption proceedings because he did not register with the putative father registry). Adoptive Parents demonstrated that no genuine issues of material fact existed and that they were entitled to judgment as a matter of law regarding Putative Father's challenge to their petition for adoption and Putative Father's paternity action. Accordingly, the trial court properly granted Adoptive Parents' motion for summary judgment.

Conclusion

[18] Putative Father's consent to the adoption was irrevocably implied as a result of his failure to timely register with the putative father registry, and he was barred from challenging the adoption or establishing paternity. Accordingly, the trial court properly granted summary judgment to Adoptive Parents. We affirm.

[19] Affirmed.

Riley, J., and May, J., concur.