



IN THE
Court of Appeals of Indiana

In the Matter of the Adoption of J.L.P.;

J.P.,

Appellant-Respondent

v.

J.M.,

Appellee-Petitioner

August 18, 2026

Court of Appeals Case No.

26A-AD-790

Appeal from the Jackson Superior Court

The Honorable Amy Marie Travis, Special Judge

Trial Court Cause No.

36D02-2407-AD-18

Opinion by Chief Judge Tavitas

Judge Bradford concurs.

Judge Felix concurs in result.

Tavitas, Chief Judge.

Case Summary

- [1] J.P. (“Father”) appeals the trial court’s grant of the petition for adoption regarding J.L.P. (“Child”) filed by J.M. (“Adoptive Mother”). We affirm.

Issues

- [2] Father raises several issues, which we restate as:
- I. Whether Father’s due process rights were violated by the failure to include in the petition for adoption an allegation that Father’s consent was unnecessary and the basis for dispensing with Father’s consent.
 - II. Whether the trial court’s determination that Father’s consent to the adoption was unnecessary is clearly erroneous.
 - III. Whether the trial court’s determination that the adoption is in Child’s best interest is clearly erroneous.

Facts

- [3] Child was born in September 2020 to Father and K.P. (“Mother”). Child has lived with Adoptive Mother since he was “about one.” Tr. Vol. II p. 7. The

trial court entered a decree of dissolution regarding the marriage of Father and Mother on June 2, 2022. At that time, Adoptive Mother was awarded legal and physical custody of Child due to the incarceration of both Father and Mother. At some point, Father was released from his incarceration and had visits with Child for approximately five months. In June 2023, Father was again arrested and incarcerated.¹ Father was released from incarceration in December 2024.

[4] On July 25, 2024, Adoptive Mother filed a petition to adopt Child. At the time, Father and Mother were both incarcerated. Father filed a letter that the trial court interpreted as contesting the adoption. The trial court then appointed counsel for both Father and Mother.

[5] A hearing on the petition for adoption was held on January 29, 2026. Mother did not appear for the hearing, but she was represented by counsel. Father appeared and was also represented by counsel. Adoptive Mother testified: Father was aware of where she lived; Father has failed to have any parenting time or meaningful contact with Child “over the past two, three years”; Father has not contacted Adoptive Mother to arrange parenting time or contacted Child; and Father has failed to provide any financial support for Child. Tr. Vol. II p. 7.

¹ Father was charged with operating a motor vehicle after forfeiture of his license for life, a Level 5 felony, and operating a vehicle while intoxicated, a Class C misdemeanor. The State also alleged that Father was an habitual offender. The State later dismissed the operating a vehicle while intoxicated charge. A mistrial was granted during Father’s trial, and the State later filed a motion to dismiss the remaining charges, which the trial court granted.

[6] Father’s testimony was often rambling and difficult to follow.² Father, however, admitted that he had not provided financial support for Child in the past two years and that he had not “had any parenting time” with Child in the past two years. *Id.* at 27.

[7] The trial court granted Adoptive Mother’s petition for adoption of Child and entered findings of fact and conclusions thereon. Regarding Father, the trial court found:

6. That, pursuant to I.C. 31-19-9-8, the natural father’s consent is not necessary as Petitioner has proven that natural father has not had meaningful contact with the minor child for more than a year, when able to do so, and has failed to provide any financial support for the child when able to do so.

7. Additionally, natural father provided testimony at the hearing that placement with him would not be possible, or safe for the minor child, at the time due to his alleged employment with the

² When asked how long he had lived at his address, Father responded:

Oh, well, I just moved, I had a, I had a large art collection out there in the front yard that’s kind of federally protected and everything, you know, and it’s like, like, there’s like billions of dollars of stuff laying out there, you know, I got some of the vastest art collection that you could see, you know, dinosaur heads, everything, you know, I’m getting ready to bring this stuff to sell because the State of Indiana is going slow in giving them more money, so I’ll sell some of my assets, you know.

Tr. Vol. II p. 21. Father testified that he was in constant contact with Donald Trump, that he was working for the FBI and CIA, and that he was “out there building AI stuff,” “out there getting stars hung,” and “out there building a safe haven.” *Id.* at 15. Father described “safe haven” as “an alternate realm” that was a “different star system.” *Id.* at 29. Father claimed that “[t]he White House sees the lies,” that he was digging up “300 pounds of gold” out of his “own personal rock garden,” that he had “above top secret clearance,” that he was “owed all this money from the state,” and that he could “buy” Brownstown and Seymour. *Id.* at 18, 23, 26, 30. Finally, Father claimed that his family owned mineral rights to oil under a “huge national forest.” *Id.* at 29.

United States Federal government among other outlandish claims.

8. Specifically, natural father believed he was working directly with President Donald Trump and the CIA, was building an alternate reality, had recently exhumed three hundred pounds of gold, and had billions of dollars' worth of artifacts in his possession.

9. Natural Father's testimony has given the Court grave concern for his mental state, finds that he is unfit to be a parent, that it is in the child's best interest that the adoption be approved and that his consent disposed of.

Appellant's App. Vol. II pp. 96-97. Father now appeals.

Discussion and Decision

[8] Father challenges the trial court's grant of Adoptive Mother's petition to adopt Child. Our Supreme Court has explained that appellate courts should "generally show 'considerable deference' to the trial court's decision in family law matters 'because we recognize that the trial judge is in the best position to judge the facts, determine witness credibility, get a feel for the family dynamics, and get a sense of the parents and their relationship with their children.'" *In re Adoption of I.B.*, 163 N.E.3d 270, 274 (Ind. 2021) (quoting *E.B.F. v. D.F.*, 93 N.E.3d 759, 762 (Ind. 2018)). "So, 'when reviewing an adoption case, we presume that the trial court's decision is correct, and the appellant bears the burden of rebutting this presumption.'" *Id.* (quoting *E.B.F.*, 93 N.E.3d at 762). "[W]e will not disturb that decision 'unless the evidence leads to but one

conclusion and the trial judge reached an opposite conclusion.’” *Id.* (quoting *In re Adoption of T.L.*, 4 N.E.3d 658, 662 (Ind. 2014)).

[9] In an adoption case, a trial court’s findings and judgment will be set aside only if they are clearly erroneous. *E.B.F.*, 93 N.E.3d at 762. “A judgment is clearly erroneous when there is no evidence supporting the findings or the findings fail to support the judgment.” *Id.* On appeal, we will neither reweigh evidence nor assess the credibility of witnesses; instead, we consider the evidence in the light most favorable to the trial court’s decision. *I.B.*, 163 N.E.3d at 274 (citing *T.L.*, 4 N.E.3d at 662).

[10] We note, however, that Adoptive Mother did not file an appellee’s brief. “[W]here, as here, the appellees do not submit a brief on appeal, the appellate court need not develop an argument for the appellees but instead will ‘reverse the trial court’s judgment if the appellant’s brief presents a case of prima facie error.’” *Salyer v. Washington Regular Baptist Church Cemetery*, 141 N.E.3d 384, 386 (Ind. 2020) (quoting *Front Row Motors, LLC v. Jones*, 5 N.E.3d 753, 758 (Ind. 2014)). “Prima facie error in this context means ‘at first sight, on first appearance, or on the face of it.’” *Id.* (quoting *Front Row Motors*, 5 N.E.3d at 758). This less stringent standard of review relieves us of the burden of controverting arguments advanced in favor of reversal where that burden properly rests with the appellee. *Jenkins v. Jenkins*, 17 N.E.3d 350, 352 (Ind. Ct. App. 2014). We are obligated, however, to correctly apply the law to the facts in the record in order to determine whether reversal is required. *Id.*

I. Father's due process rights were not violated.

[11] Father first contends that the petition for adoption failed to allege that his consent was not required or to provide the basis for dispensing with his consent. The petition for adoption alleged that Father was incarcerated at the time of filing and that Adoptive Mother had been Child's third-party custodian since June 2022, but the petition did not specifically allege that Father's consent was unnecessary or set out the basis for dispensing with his consent. Father argues that the lack of specificity regarding the basis for dispensing with his consent left him "unable to discern" the allegations and violated his due process rights. Appellant's Br. p. 11.

[12] Father, however, never raised this argument regarding the petition for adoption below. Moreover, Father did not raise a due process argument before the trial court and makes no fundamental error argument on appeal. The issue, thus, is waived. *See In re N.G.*, 51 N.E.3d 1167, 1173 (Ind. 2016) ("[A] party on appeal may waive a constitutional claim, including a claimed violation of due process rights, by raising it for the first time on appeal.").

[13] Waiver notwithstanding, we conclude that, although not explicitly required by the adoption statutes, a petition for adoption should allege, if applicable, that consent is not required and explain the reasons for that allegation. Adoptive Mother's failure to do so here, however, did not result in a violation of Father's due process rights.

- [14] We begin by reviewing the relevant adoption statutes. Upon receiving a petition for adoption, a trial court is required to “promptly [] examine the petition for adoption” and “determine whether the petition for adoption is in proper form.” Ind. Code § 31-19-2-10. Indiana Code Section 31-19-2-6 lists the required contents of an adoption petition and does not specifically require allegations regarding the parent’s consent. The statute, however, does require the petitioner to include “[a]dditional information consistent with the purpose and provisions of this article that is considered relevant to the proceedings.” Ind. Code § 31-19-2-6(a)(10).
- [15] Further, Indiana Code Section 31-19-2-2(b) provides that a petition for adoption must include either “[a] written consent to the adoption from each individual whose consent to the adoption is required” or “[a] certified copy of a court order terminating the parental rights of each parent whose consent to the child’s adoption is required under IC 31-19-9.” If a trial court, upon examining a petition for adoption, finds that written consents or court orders terminating parental rights are not attached to the petition and the petition does not specify that consents are not required, the trial court would have difficulty determining whether the petition for adoption is in the proper form.
- [16] Moreover, notice of the adoption petition must be given to “a person whose consent to adoption is required under IC 31-19-9-1.” Ind. Code § 31-19-2.5-3(a)(1). Indiana Code Section 31-19-9-1 requires written consent to adoption from “[e]ach parent of a child born in wedlock.” Indiana Code Section 31-19-2.5-2(b) then provides:

If a petition for adoption alleges the consent of a putative father or a parent to the adoption has not been obtained and is unnecessary under:

(1) IC 31-19-9-8(a)(1) [abandonment for six months];

(2) IC 31-19-9-8(a)(2) [failure to communicate or support for at least one year]; [or]

* * * * *

(6) IC 31-19-9-8(a)(11) [parent unfit];

notice must be given under IC 31-19-4.5.

(emphasis added). Additionally, Indiana Code Section 31-19-4.5-2 provides: “Except as provided in IC 31-19-2.5-4^[3], **if a petition for adoption alleges that consent to adoption is not required** under IC 31-19-9-8, notice of the adoption must be given to the person from whom consent is allegedly not required under IC 31-19-9-8.” (emphasis added). These notice provisions also suggest that the petition for adoption should specifically allege that consent is not required and cite the statutory basis for dispensing with consent.

[17] The burden of proof also depends upon the allegations regarding consent. Indiana Code Section 31-19-10-1.2(a) provides: “**If a petition for adoption**

³ The exceptions listed in Indiana Code Section 31-19-2.5-4 are not applicable here.

alleges that a parent's consent to adoption is unnecessary under: (1) IC 31-19-9-8(a)(1); or (2) IC 31-19-9-8(a)(2); and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner for adoption has the burden of proving that the parent's consent to the adoption is unnecessary under IC 31-19-9-8." (emphasis added). On the other hand, if the petition alleges that consent is unnecessary because the child was conceived through child molesting or sexual misconduct with a minor, the burden is on the parent to prove that the child was not conceived in that manner. Ind. Code § 31-19-10-1.2(b). The allegations in the petition, thus, determine which party bears the burden of proof.

[18] Finally, in ruling on a petition for adoption, the trial court must comply with Indiana Code Section 31-19-11-1(a), which provides:

Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

* * * * *

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

* * * * *

(7) proper consent, if consent is necessary, to the adoption has been given;

* * * * *

the court shall grant the petition for adoption and enter an adoption decree.

We have also required trial courts to make specific findings to explain why a parent's consent to the adoption is unnecessary. *See W.M. v. H.T.*, 157 N.E.3d 1231, 1234 (Ind. Ct. App. 2020).

[19] Given this statutory framework, even though Indiana Code Section 31-19-2-6 does not specifically require allegations regarding the parent's consent in the petition for adoption, we infer from the adoption statutes that the petitioner should include in the petition an allegation that consent is not required and explain the basis for that allegation.⁴ Without this specific allegation, it would be unclear whether the petition for adoption is in the proper form, whether proper notice was given, and which party has the burden of proof. This specific allegation also allows the parent to readily determine the alleged basis for dispensing with the parent's consent and prepare a defense.

[20] We now consider whether Father's due process rights were violated given this statutory background. The United States Supreme Court has stated that "the fundamental requirement of due process is the opportunity to be heard at a

⁴ "Statutory provisions cannot be read standing alone; instead, they must be construed in light of the entire act of which they are a part." *Int'l Union of Police Assocs., Loc. No. 133 v. Ralston*, 872 N.E.2d 682, 686-87 (Ind. Ct. App. 2007).

meaningful time and in a meaningful manner.’” *In re C.G.*, 954 N.E.2d 910, 917 (Ind. 2011) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). Here, Father was afforded the opportunity to be heard at a meaningful time and in a meaningful manner. Father was aware of the adoption petition, contested the petition, and was represented by counsel. Father did not request a more definite statement under Indiana Trial Rule 12(E) or file a motion to dismiss under Indiana Trial Rule 12(B). Rather, Father fully participated in the hearing on the matter and presented evidence on the relevant basis for dispensing with his consent. Accordingly, we conclude that Father’s due process argument fails.

II. Father’s consent to the adoption was not required.

[21] Father argues that the trial court clearly erred in concluding that his consent to the adoption was not required. In general, “a petition to adopt a child who is less than eighteen (18) years of age may be granted only if written consent to adoption has been executed by . . . [e]ach parent of a child born in wedlock” Ind. Code § 31-19-9-1(a)(1). “[U]nder carefully enumerated circumstances,’ however, the adoption statutes allow ‘the trial court to dispense with parental consent and allow adoption of the child.’” *In re Adoption of C.W.*, 202 N.E.3d 492, 495 (Ind. Ct. App. 2023) (quoting *I.B.*, 163 N.E.3d at 274).

[22] Indiana Code Section 31-19-9-8(a) provides in relevant part:

Consent to adoption, which may be required under section 1 of this chapter, is not required from any of the following:

* * * * *

(2) A parent of a child in the custody of another person if for a period of at least one (1) year the parent:

(A) fails without justifiable cause to communicate significantly with the child when able to do so; or

(B) knowingly fails to provide for the care and support of the child when able to do so as required by law or judicial decree.

* * * * *

(11) A parent if:

(A) a petitioner for adoption proves by clear and convincing evidence that the parent is unfit to be a parent; and

(B) the best interests of the child sought to be adopted would be served if the court dispensed with the parent's consent.

[23] Our courts have long held that a natural parent enjoys special protection in adoption proceedings. *C.W.*, 202 N.E.3d at 495 (citing *I.B.*, 163 N.E.3d at 274). Accordingly, we strictly construe our adoption statutes to preserve the fundamentally important parent-child relationship. *Id.*

[24] Here, the trial court found that Father's consent was not required because: (1) Father failed without justifiable cause to communicate significantly with Child

for at least one year when able to do so; (2) Father knowingly failed to provide for the care and support of Child for at least one year when able to do so as required by law or judicial decree; and (3) Father was unfit and Child's best interests were served by dispensing with his consent. We need not address Father's arguments regarding his ability to provide support for Child and his unfitness because we conclude that the trial court did not clearly err by finding that Father failed without justifiable cause to communicate significantly with Child for at least one year when able to do so.

[25] Father argues that he was justified in postponing communication due to his incarceration, Child's young age, and his mental health struggles.⁵ There is no indication that Father was unable to communicate with Child during his incarceration. Our Supreme Court addressed a similar situation in *In re Adoption of O.R.*, 16 N.E.3d 965 (Ind. 2014), where the father was serving a

⁵ Although not mentioned by Father, we note that Indiana Code Section 31-19-10-1.4(b) provides:

If a petition for adoption alleges that a parent's consent to the adoption is unnecessary under IC 31-19-9-8(a)(1) or IC 31-19-9-8(a)(2) and the parent files a motion to contest the adoption under section 1 of this chapter, the court may consider:

- (1) the parent's substance abuse;
- (2) the parent's voluntary unemployment; or
- (3) instability of the parent's household caused by a family or household member of the parent;

as justifiable cause for the parent's abandonment or desertion of the child as described in IC 31-19-9-8(a)(1), failure to communicate significantly with the child as described in IC 31-19-9-8(a)(2)(A), or failure to provide for the care and support of the child as described in IC 31-19-9-8(a)(2)(B), if the parent has made substantial and continuing progress in remedying the factors in subdivisions (1), (2), and (3), and it appears reasonably likely that progress will continue.

Indiana Code Section 31-19-10-1.4(b) does not list incarceration, a child's young age, or mental health issues as a factor the trial court may consider for a finding of justifiable cause. We do not, however, view Indiana Code Section 31-19-10-1.4(b) as an exclusive list of circumstances that would justify a finding of justifiable cause.

seven-year sentence of incarceration, sent no mail to the child, and called only once. The Court found that the father's incarceration was not justifiable cause for his failure to communicate significantly with the child for more than one year and that his consent to the child's adoption was unnecessary.

[26] Similarly, here, after Child's placement with Adoptive Mother, Father visited with Child for approximately five months. Father, however, was then incarcerated again in June 2023 and failed to communicate with Child for more than one year. Adoptive Mother filed her petition to adopt Child in July 2024. At the January 2026 hearing, Adoptive Mother testified that Father has failed to have any parenting time or meaningful contact with Child "over the past two, three years," and that Father has not contacted Adoptive Mother to get parenting time or contact with Child. Tr. Vol. II p. 7. Adoptive Mother testified that she had lived in the same location for twenty years, and Father was aware of her location. Father admitted at the hearing on this matter that he failed to communicate with Child for more than one year.

[27] Given this evidence, Adoptive Mother presented evidence that Father failed without justifiable cause to communicate significantly with Child for more than one year when he was able to do so. Accordingly, the trial court's finding that Father's consent to the adoption was unnecessary is not clearly erroneous.

III. The adoption was in Child's best interest.

[28] Next, Father challenges the trial court's finding that the adoption was in Child's best interest. Indiana Code Section 31-19-11-1(a)(1) provides that the trial court

shall not grant an adoption petition unless “the adoption requested is in the best interest of the child.” The trial court here found that “it is in the child’s best interest that the adoption be approved.” Appellant’s App. Vol. II p. 97.

[29] Father contends that it “would be unjust” to grant the adoption because he previously visited with Child; he has not had the opportunity to “rehabilitate himself”; he “was kept from the child before he had ample opportunity to position himself as an adequate parent”; and “it was impractical for Father to play a role in [Child’s] life due to his incarceration, his financial situation, and his mental health struggles.” Appellant’s Br. p. 17.

[30] The evidence, however, showed that Child was born in September 2020, Child has lived with Adoptive Mother since he was “about one,” and Adoptive Mother has been Child’s legal third-party custodian since June 2022. Tr. Vol. II p. 7. Both parents were incarcerated at that time. Although Father visited with Child for approximately five months after his release from incarceration, he was soon incarcerated again, and Father has had no contact with Child since that time. Father’s severe mental health issues were evident at the hearing on this matter. Under these circumstances, the trial court’s finding that the adoption was in Child’s best interest is not clearly erroneous.

Conclusion

[31] We conclude that Father’s due process rights were not violated by Adoptive Mother’s failure to include allegations regarding Father’s consent in the adoption petition. Further, the trial court’s finding that Father’s consent to the

adoption was not required is not clearly erroneous, and the trial court's finding that the adoption was in Child's best interest is not clearly erroneous.

Accordingly, we affirm.

[32] Affirmed.

Bradford, J., concurs.

Felix, J., concurs in result.

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