

STATE OF MICHIGAN  
COURT OF APPEALS

---

In the Matter of JACK ROBERT BLAYLOCK, III,  
Minor.

---

TIM SMITH and DIANNE SMITH,

Petitioners-Appellants,

v

JACK BLAYLOCK and TINA BLAYLOCK,

Respondents-Appellees.

---

UNPUBLISHED  
December 28, 2001

No. 234755  
Eaton County Probate Court  
LC No. 96-033152-GD

Before: Meter, P.J., and Jansen and R. D. Gotham\*, JJ.

MEMORANDUM.

Petitioners appeal by delayed leave granted the order denying their petition for authority to consent to adopt. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Petitioners are the grandparents of Jack Robert Blaylock, III. They were appointed his legal guardians in a June 24, 1996 order. In that capacity, they filed a petition in probate court seeking authority to consent to adopt the child. Respondents, the biological parents, objected. The probate court found that it could not grant the authority where respondents' parental rights have not been terminated.

Petitioners assert that MCL 700.5215(e) and MCL 710.43(1) give them power as guardians to consent to adoption, with the approval of the court. However these provisions conflict with other portions of the adoption code, which require the termination of parental rights prior to adoption. MCL 710.26(1)(a); MCL 710.41; *In re Lang*, 236 Mich App 199, 133; 600 NW2d 646 (1999). Allowing an adoption prior to the termination of parental rights would circumvent the procedural requirements included in the probate code and adoption code intended to protect parents' fundamental rights. MCL 710.39; MCL 712A.19. *Long v Branch*, 172 Mich App 81, 91; 431 NW2d 835 (1988). In order to adopt their ward, petitioners are required to seek the consent of respondents, or take the steps necessary to obtain the termination of their parental rights. *Id.*

---

\* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Patrick M. Meter

/s/ Kathleen Jansen

/s/ Roy D. Gotham