

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

In the Matter of the Adoption of B.S. (Minor Child)

A.C.,

Appellant

v.

N.W.,

Appellee



April 30, 2024

Court of Appeals Case No.
23A-AD-2721

Appeal from the Fountain Circuit Court
The Honorable Hunter J. Reece, Special Judge

Trial Court Cause No.
23C01-2205-AD-9

Memorandum Decision by Judge Brown
Judges Riley and Foley concur.

Brown, Judge.

- [1] A.C. appeals from the denial of her petition to adopt B.S. (“Child”) and challenges the trial court’s finding that adoption is not in Child’s best interest. We affirm.

Facts and Procedural History

- [2] In May 2022, A.C. filed a petition to adopt Child, who was born in December 2014. A.C. alleged that she and V.S.-S. (“Mother”), the natural mother of Child, were married in April 2022, that the consent of N.W. (“Father”), Child’s biological father, was not required, and that adoption by her was in Child’s best interest. In June 2022, Father filed a motion contesting the adoption. A.C. filed a motion for partial summary judgment arguing Father’s consent to the adoption was not required, and the court denied the motion. A.C. filed a motion to reconsider, and the court issued an order granting the motion to reconsider and finding Father’s consent to the petition for adoption was not required.
- [3] The court held a hearing. A.C. testified that she married Mother in April 2022 and had lived with Mother and Child for almost two years. She indicated that, since she was involved with Child, Father was not a part of Child’s life and did not provide monetary support. When asked why it would be in Child’s best interest for the court to grant her petition, she testified Child “hasn’t had any stability or consistency in her life and I provide that,” “I am there every day with her,” “[s]he is excited when she gets up for school because I’m there to

make breakfast and get her ready and when she gets off the bus she's excited to be picked up from the bus by us," and "[i]t's just a stable family for her." Transcript Volume II at 11. On cross-examination, in reference to A.C.'s testimony that she had lived with Mother and Child for almost two years, when asked "[b]ut [Child] didn't live with you during that entire time," she replied, "[s]he did stay at her grandparents here and there, yes." *Id.* at 15. A.C. testified, "She stayed with us off and on. She did enjoy going to her grandparents' house because they have a trampoline set and stuff, but she was with us as well." *Id.* at 16. She indicated Child stayed with her and Mother at least three to four nights a week.

[4] Father testified he had been employed for the previous three years at a steel company and was previously involved with Child. He acknowledged that he had been charged with possession of marijuana and paraphernalia in 2013, invasion of privacy and harassment in 2016, operating while intoxicated in 2017 to which he pled guilty, and possession of methamphetamine and criminal trespassing in 2018 and that he pled guilty to the trespassing charge. When asked how long he struggled with substances, he replied: "That was a time in my life when my parents had passed away. It was a bad time in my life. I've been good since. My record shows. I don't -- it was just a short period of time." *Id.* at 30-31. He indicated that he has other children and has custody of those children.

[5] J.S. ("Grandfather") testified that Mother was his daughter by adoption, he gave her two and one-half acres of land adjacent to his residence, and she had a

house built on the property. He indicated he owned nineteen to twenty-one acres, that he carved out parcels for other family members, and that there were several homes on the land which he had purchased. He testified that Child lived with him from the time she was born in 2014 until May 30, 2023. He testified: “It’s been about 45 days ago that they took her and they don’t let us see [her] no more . . . or talk to her.” *Id.* at 39. He indicated that, prior to May 30th, Child stayed at his house every night except for once or twice a month. He testified he did not believe the adoption was in the best interest of Child, he observed a bruise on the side of Child’s body, and he confronted A.C. and Mother. He testified that Child had a room in his house, “she lived with us eight and a half years,” “[w]e are the ones that provide everything for her from food, clothing,” “I took her to the bus,” and “we are the ones that raised her.” *Id.* at 47-48. He testified that Mother, Father, and Child lived with him for about eighteen months. He also testified “[t]o me it’s not fair to [Child] to be adopted because she has father and mother and she has grandma and grandpa that loves her very much” and “[a]s long as I live I will do all I can for her.” *Id.* at 64.

[6] F.S. (“Grandmother”) testified that Child was her granddaughter, she had a close bond with Child, and Mother and A.C. took Child in May and “wouldn’t let her see us again.” *Id.* at 74. She testified that she did not believe it was in Child’s best interest to be adopted and that she observed Child with a “busted lip . . . [a]fter it was healed.” *Id.* at 76. She indicated Father took Child to father-daughter dances in kindergarten and first grade, and lived at her house

for about a year. She indicated Mother lived with her after Child was born, Mother lived outside of her home at different times with Father and another person she dated, and Child had lived apart from her and Grandfather for only about five months.

[7] I.W. testified that Grandfather and Grandmother are her parents and that she shares a driveway with them. She indicated Child lived with Grandfather and Grandmother for the majority of her life including during times Mother lived elsewhere, she had a close relationship with Child, and she had a brother and another sister who lived on the property. She did not believe it was in Child's best interest for the adoption to be granted and testified "[A.C.] has only been in [Child's] life for about a year, but never truly lived with them." *Id.* at 92. She testified she observed bruises on Child. I.W. testified she lived with her husband and son, her ten-year-old stepson visited every other weekend, and her stepson and Child are best friends. She testified she used to have a good relationship with A.C., that changed when she "saw the fear on [Child]," Child was "very scared of [A.C.]," she asked Mother why Child was so scared, and "[t]hat's when my relationship changed and that's when they started pulling her away from me." *Id.* at 98. She indicated that occurred in March 2023.

[8] A.C. testified that Child "stayed back and forth between [Grandfather and Grandmother] and us due to a medical condition that [Mother] had that made her bedridden for a few months." *Id.* at 126. A.C. indicated that she has grounded Child and spanked her. She indicated that she has never been charged with abusing Child and never had to appear in court in connection

with any Department of Child Services case alleging she abused Child. When asked what happened since the prior hearing, A.C. testified: “So we lived [at] [Mother’s] house and now we’ve been forced to move to Illinois due to [h]arassment of the entire . . . family. They have constantly drove past our property very slowly staring at us.” *Id.* at 129.

[9] Mother testified that she and Child lived with Grandfather and Grandmother from when Child was born until 2016, that she lived in an apartment with Child from July 2016 until March 2017, and that she and Child lived with Grandfather and Grandmother from March 2017 until she moved into the house she had built in October 2020. She testified that the sale of the house she had built was pending and that she, A.C., and Child had moved to Illinois.

[10] The trial court entered an order providing:

Although paternity has never been established, it was agreed to by the undisputed testimony that [N.W.] is the Father of this child. This case was a difficult matter to decide, as clearly the child has a large family that care[s] for her, including [A.C.]. Father has had struggles in the past. [A.C.] cares greatly for the child and would serve as a good caregiver, which this Order will not prevent. But after weighing the testimony of all witnesses, considering the evidence presented, the Court finds that [A.C.] has not met her burden and finds that granting of the Petition is not in the best interests of the child.

The Petition is therefore, DENIED.

Appellant’s Appendix Volume II at 33.

Discussion

[11] A.C. asserts the trial court's findings do not support its conclusion that adoption is not in Child's best interest. In family law matters, we generally give considerable deference to the trial court's decision because we recognize that the trial judge is in the best position to judge the facts, determine witness credibility, and obtain a feel for the family dynamics and a sense of the parents and their relationship with their children. *E.B.F. v. D.F.*, 93 N.E.3d 759, 762 (Ind. 2018). Accordingly, 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.* The trial court's findings and judgment will be set aside only if they are clearly erroneous. *Id.* A judgment is clearly erroneous when there is no evidence supporting the findings or the findings fail to support the judgment. *Id.* We will not reweigh evidence or assess the credibility of witnesses. *Id.* The specific findings control only as to the issues they cover, and a general judgment standard applies to issues upon which the trial court made no findings. *Zukerman v. Montgomery*, 945 N.E.2d 813, 818 (Ind. Ct. App. 2011). A general judgment may be affirmed based on any legal theory supported by the evidence. *Angel v. Vanderburgh Cnty. Treasurer*, 53 N.E.3d 457, 460 (Ind. Ct. App. 2016). 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. *In re Adoption of T.L.*, 4 N.E.3d 658, 662 (Ind. 2014).

[12] Ind. Code § 31-19-11-1(a) provides in part that, when the court “finds that: (1) the adoption requested is in the best interest of the child” and “(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.” Even if a court determines that a natural parent’s consent is not required for an adoption, the court must still determine whether adoption is in the child’s best interests. *In re Adoption of O.R.*, 16 N.E.3d 965, 974 (Ind. 2014).

[13] The trial court heard the testimony of A.C., Mother, Father, Grandfather, Grandmother, and I.W. and was able to assess their credibility, weigh their testimony, and observe their demeanors and the family dynamics. In assessing whether the adoption requested by A.C. was in Child’s best interest, the court was able to consider the evidence regarding Child’s age, the length and significance of the periods that Child lived or stayed with Grandfather and Grandmother and with Mother and A.C., and the relationships and bonds which Child had developed. Each of the witnesses was thoroughly examined and cross-examined regarding their observations, their involvement with Child over the years, and their relationships with Child and each other. The trial court was in the best position to judge the facts, and we will not reweigh the evidence or assess the credibility of the witnesses. We cannot say under these circumstances that A.C. has met her burden to overcome the presumption the trial court’s decision is correct or that the evidence leads to but one conclusion and the trial court reached the opposite conclusion.

[14] For the foregoing reasons, we affirm the trial court.

[15] Affirmed.

Riley, J., and Foley, J., concur.

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