

Children's Law Center of Indiana



Adoption

5/26/16

In **In Re Adoption of W.M.**, 55 N.E.3d 386 (Ind. Ct. App. 2016), the Court affirmed the order of the Greene Circuit Court transferring Grandparents' adoption petition to the Monroe Circuit Court, where the child's CHINS case, the termination of parental rights case, and Aunt and Uncle's adoption petition were pending. Id. at 389. The child was born on December 14, 2013, and soon after birth was adjudicated a Child in Need of Services (CHINS). The Indiana Department of Child Services (DCS) placed the child with Grandparents. DCS required Grandparents to drug test monthly because Grandfather had recently tested positive for marijuana. In March 2015, DCS discovered that Grandmother was using methamphetamine. Following Grandmother's positive drug test, DCS removed the child from Grandparents' house and placed the child with Aunt and Uncle. On June 19, 2015, Grandparents filed a petition in Monroe Circuit Court to intervene in the child's CHINS case, which was granted, and then filed a petition to adopt the child in Greene Circuit Court. On September 24, 2015, Aunt and Uncle filed a petition to adopt the child in Monroe Circuit Court. On December 3, 2015, Aunt and Uncle filed a motion to intervene in the Grandparents' adoption case in Greene Circuit Court and moved to transfer Grandparents' adoption case to the Monroe Circuit Court. The Greene Circuit Court granted Aunt and Uncle's motion seven days later, transferring Grandparents' adoption case to Monroe Circuit Court. Grandparents appealed the transfer of their adoption case.

The Court found that the Greene Circuit Court did not have exclusive jurisdiction over the adoption proceeding. Id. at 388. An adoption petition can be filed in an Indiana court with probate jurisdiction in the county where: "(1) the petitioner for adoption resides; (2) a licensed child placing agency or government agency having custody of the child is located; or (3) the child resides." IC 31-19-2-2. Id. Grandparents were proper in filing their adoption petition in Greene County because that is their county of residence. Id. Aunt and Uncle also properly filed their adoption petition in Monroe County because that is where the child was a ward. Id. Both courts had jurisdiction. Id. The Court concluded, referencing In Re Adoption of Z.D., 878 N.E.2d 495 (Ind. Ct. App. 2007), that Monroe Circuit Court was not required to divest itself of jurisdiction just because Grandparent's adoption petition was pending in Green Circuit Court. Id.

The Court concluded that the preferred venue for this case was the Monroe Circuit Court. Id. at 389. The Court stated that, since neither court had exclusive jurisdiction, the case should be decided in the court that was the preferred venue. Id. The Court found that the preferred venue for this case was the Monroe Circuit Court because the child's CHINS case, a termination of

parental rights case with respect to the child, and Aunt and Uncle's adoption petition were all pending in the Monroe Circuit Court. Id. Additionally, the Court observed that Grandparents had successfully intervened in the child's CHINS case in the Monroe Circuit Court. Id. The Court noted that Grandparents' adoption petition had been transferred to Monroe Circuit Court, where they could argue that their petition should be granted and that Aunt and Uncle's petition should be denied. Id.