



Adoption

11/26/2019

In **J.F. v. L.K.**, 136 N.E.3d 624 (Ind. Ct. App. 2019), the Court affirmed the trial court's order dismissing Father's motion for relief from judgment regarding the adoption, and held that Father had not timely challenged the adoption decree, and that Father was statutorily precluded from contesting the adoption decree.

The child was born in December 2009, and the material grandparents ("Adoptive Parents") obtained guardianship of the child in July 2012. Adoptive Parents filed a petition for adoption in May 2014, alleging that Father's consent was not needed because he had failed to support the child, and failed to significantly communicate with the child. Father filed a motion to contest the adoption. Mother consented to the adoption. In Father and Mother's divorce case, Father agreed to supervised visitation, and to pay child support. A hearing on the adoption was set for July 2015. Father's attorney withdrew, and informed Father of the hearing date, time, and location, but Father did not appear for the hearing. After waiting for forty minutes, the trial court entered a decree of adoption, finding Father's consent was not necessary and the adoption was in the child's best interests. There is a June 2016 entry in the divorce case CCS that states Mother and Father appeared in person and notified the trial court that the child was adopted. In June 2017, Father filed a motion for relief from judgment in the adoption case, arguing he had no notice of the adoption hearing because the letter was sent to the wrong address. The trial court held a hearing and ultimately denied Father's motion, noting Father's motion was filed almost two years after the decree, and that the time period set forth in IC 31-19-14-2 had expired. Father appealed.

Father argued that although he did not meet the strict deadlines set forth in IC 31-19-14-2 and -4, that the statutes were not an absolute bar and that too strict an interpretation of the statutes was a violation of his constitutional rights. *Id.* at 627. Father also argued that Adoptive Parents had agreed to certain custodial and parenting time rights in the divorce case, and he was simply trying to enforce this agreement. *Id.*

Pursuant to the statutes of limitations, adoption decrees cannot be challenged once the time frame for doing so has lapsed, even if proper notice of the adoption was not given, or if the proceedings are otherwise defective. *Id.* at 629. IC 31-19-14-2 provides that except as otherwise provided, a person whose rights are terminated by an adoption decree cannot challenge the decree after either six months from the entry of the adoption decree, or one year after the adoptive parents gain custody of the child, whichever comes later. If the person is not time barred from challenging the adoption decree, the court must sustain the adoption decree unless the person challenging the decree shows by clear and convincing evidence that modifying or setting aside the decree is in the child's best interests. IC 31-19-14-2. IC 31-19-14-4 provides that after the expiration of this time period, no one may challenge the adoption decree, even if

notice was not given or the adoption proceedings were defective in any manner. IC 31-19-14-3(b) provides that a person who is served with notice of an adoption under IC 31-19-4 may not contest the adoption more than thirty days after service of notice of the adoption. The Court opined that these are statutes of limitation, providing security and stability against stale claims. Id. at 628. If the statute of limitations has run its course, then dismissal is appropriate. Id. The Court noted that the adoption decree had been issued almost two years before Father's challenge, and Adoptive Parents had custody of the child for seven years prior to Father's challenge. Id. This was well outside of the time frame set forth in the statutes. Id. To the extent that Father claimed he did not have notice, the Court noted that Father knew about the pending adoption, had participated in some of the proceedings, had been notified of the final hearing, and had even notified the divorce court of the outcome of the proceedings. Id. at 628-29. The Court further noted that although it did not find Father's claims of no notice credible, the statute specifically provides that the decree cannot be challenged after the lapse of the statutes of limitations, even if there was no proper notice. Id. at 629.