



Adoption
GAL/CASA
2/17/2021

In **In re Adoption of E.M.M.**, 164 N.E.3d 779 (Ind. Ct. App. 2021) *trans. denied*, the Court held that the trial court did not err in determining that the adoption was not in the child's best interests and denying Grandparents' adoption petition.

Mother and Father never married but had a child together. They lived together for two years after the child's birth, and Father then filed to establish paternity. From 2012 to 2017, Mother and the child lived together; in late 2017, Mother remarried, and Stepfather lived with Mother and the child. DCS was contacted because Stepfather had abused the child, and the child was found to be a CHINS. DCS did not know where Father was and eventually placed the child with Grandparents. DCS moved to terminate Mother's rights and located Father. DCS changed its permanency plan to reunification with Father. Before Mother's rights were terminated, Grandparents filed a petition to adopt the child with Mother's consent. Father did not timely respond to their petition, and the CHINS court placed the child with Father. The adoption trial court dismissed Father's eventual motion to contest the adoption because he had not timely filed his motion and deemed his consent irrevocably implied. However, at a hearing, the court heard evidence to determine if it was in the child's best interests to grant the adoption. The Court determined, based on evidence from the CASA and other evidence, that the adoption was not in the child's best interests.

Even if a parent's consent is not needed, an adoption must still be found to be in a child's best interests; in this case, the evidence supported the trial court's determination that the adoption was not in the child's best interests. Id. at 782. The Court noted that it did not need to address whether Father's consent was irrevocably implied; the trial court had ruled in Grandparents' favor on this issue and had determined that Father's consent was not necessary. Id. However, the Court noted a trial court cannot grant an adoption unless it is in the best interests of the child, and the trial court determined the adoption was not in the child's best interests. Id. The Court characterized Grandparents' arguments about the child's best interests as requests to reweight the evidence. Id. The Court noted that the CASA testified definitively that adoption was not in the child's best interests, and that the child was happy living with Father and his extended family in Arizona. Id. The Court also noted that the trial court had conducted an in chambers interview with the child. Id.