



## **Adoption**

12/9/2020

In **M.M. v. A.C.**, 160 N.E.3d 1133 (Ind. Ct. App. 2020), the Court affirmed the trial court's order granting the adoption and held that Stepmother presented sufficient evidence to show that Mother failed without justifiable cause to significantly communicate with the children for a period of at least one year.

Mother and Father had two children and divorced; Father later remarried. Father always had sole legal and physical custody of the children, and Mother had parenting time. Mother had a substance abuse problem and unresolved mental health problems, and she unsuccessfully attempted rehabilitation several times. Three years after Father and Stepmother married, Stepmother filed a petition to adopt the children. Mother objected, but the trial court eventually granted the adoption petition.

**Stepmother presented sufficient evidence showing that Mother failed without justifiable cause to significantly communicate with the children for a period of at least one year. Id. at 1138.** Mother did not deny that she failed to significantly communicate with the children, but she did argue that Stepmother failed to present evidence showing that Mother was able to communicate significantly with the children. Id. at 1136. Mother attempted to liken her case to In re the Adoption of E.B.F., 93 N.E.3d 759 (Ind. 2018), which held that the mother's struggle with addiction and attempts to seek treatment for it were justifiable cause for her failure to communicate. Id. The M.M. Court opined that Mother's addiction to drugs was the only similar to the E.B.F. case; Mother made little to no other efforts to successfully address her addiction, to seek time with the children, or to provide care for the children. Id. at 1138. Additionally, Stepmother was not prohibiting Mother from having contact with children. Id. Stepmother presented evidence that Mother last saw the children in 2016, and had not called, visited, or sent email or gifts since that time. Id. Stepmother also presented evidence that Mother was offered visits with the children, but Mother did not choose to visit. Id. Consequently, the Court concluded that Stepmother had presented sufficient evidence to support the finding that Mother failed without justifiable cause to communicate significantly with the children, and thus, her consent to the adoption was not needed. Id.