Adoptions without Consent of a Parent: Is it Possible?

March 10, 2022

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The Journal Record

https://journalrecord.com/2022/03/09/gavel-to-gavel-adoptions-without-consent-of-a-parent-is-it-possible/

The Constitution protects the fundamental right of parents to direct the care, upbringing, and education of their children. As with most areas of law, thought this is a Constitutional right, it is not without its own limitations. There are a limited number of exceptions under Oklahoma law to legally adopt a minor child without the consent of a biological parent. 10 O.S. Section 7505-4.2 is the controlling statute on exceptions for parental consent in adoption cases.

If a biological (or natural) parent contests the adoption proceeding - and due to the fact that the consequences are of such high magnitude - that parent is entitled to an evidentiary hearing and trial on the merits. The Petitioners (the parties wishing to adopt the child) must prove to the satisfaction of the court by clear and convincing evident that the natural parent has failed to meet just one of the listed exceptions identified under 10 O.S. Section 7505-4.2. Certain criteria must be met in order to satisfy this burden, and in a majority of cases, is not easy to prove.

Two of the most common grounds where a natural parent's consent to the adoption is not required is when the natural parent: 1) has willfully failed, refused, or neglected to contribute to financially support the minor child within 12 consecutive months our of the last 14 months; or 2) failed to maintain and/or establish a substantial and positive relationship with the minor child with 12 consecutive months out of the last 14 months. See 10 O.S. Section 7505.4.2(B),(H). The look back period over the past 14 months begins at the time the Petition for Adoption is filed.

For example, if a parent has a child support order entered against them as an obligor and willfully fails to pay child support within 12 out of the 14 months preceeding the filing of the Petition for Adoption, that evidence can be utilized against them within the adoption, and the adoption without their consent is likely to proceed. Meanwhile, maintaining a substantial and positive relationship requires more than mere token contact or communication with the child. Each of these circumstances are incredibly fact sensitive, and will differ on a case by case basis. It is why each adoption case terminating the rights of a natural parent and allowing a child to be adopted without their consent is paramount, but can be accomplished should certain criteria be met.

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