

Michigan Court of Appeals Reverses Adoption of Indian Child; Cites Michigan Adoptive Placement Preference Standards

Article By:

Family Law Practice at Varnum

As mentioned in a recent blog post regarding [child custody proceedings involving Indian children in Michigan](#), significant legal and procedural requirements must be met before an Indian child may be adopted. The federal government and the state of Michigan show concern over potential separation of Indian children from their families and tribes through the Indian Child Welfare Act (ICWA) and the Michigan Indian Family Preservation Act (MIFPA), which include adoptive placement preference requirements for individuals seeking to adopt Indian children.

Those laws again came into play in a recent opinion of the Michigan Court of Appeals which reversed the adoption of an Indian child by a non-Indian family where an Indian family had filed a delayed petition to adopt the same child.

In re KMN (a combined case, COA Docket Nos. 322329 and 322883, decided February 26, 2015), involved a petition in Newaygo County to terminate parental rights and adopt an Indian child by non-Indians. The child's Indian father consented to termination of his parental rights as did the non-Indian mother, who also expressed a preference regarding the child's adoptive placement. The adoption petition was opposed by the Match-E-Be-Nash-She-Wish Band of Potawatomi Indians and the Michigan Department of Human Services. The trial court granted the adoption, finding the mother's expressed preferences constituted good cause to deviate from MIFPA's adoptive placement preference requirements.

The Court of Appeals found that the trial erred by failing to apply MIFPA's adoptive placement preference requirements, found in MCL 712B.23. In particular, the Court of Appeals held MIFPA requires that all possible adoptive placements must be thoroughly investigated and eliminated before good cause exists to deviate from MIFPA's placement preferences. Because an Indian family who met the placement preferences had expressed a desire and filed a petition, though late, to adopt the child, the trial court was required to thoroughly investigate and eliminate that potential placement before making a placement outside of the statutorily preferred placement options.

The trial court did not do so, however, and as a result the Court of Appeals reversed the adoption and remanded the case back to Newaygo County for additional proceedings. As a published opinion, In re KMN, is a precedential decision which must be followed by all trial courts in Michigan.

While it remains to be seen what the final outcome of this particular case will be, the decision further underscores the importance of adhering to law as established by the ICWA and MIFPA with regard to Indian child adoptions.

© 2025 Varnum LLP

National Law Review, Volume V, Number 79

Source URL: <https://natlawreview.com/article/michigan-court-appeals-reverses-adoption-indian-child-cites-michigan-adoptive-placem>