

# Children's Law Center of Indiana



## Adoption

12/4/2014

In **In Re Adoption of J.T.D.**, 21 N.E.3d 824 (Ind. 2014), the Indiana Supreme Court reversed and remanded the Lake County Superior Court's ("Superior Court") order which declined to transfer the adoption case from its own court to the Lake County Juvenile Division ("Juvenile Court"). The Court held that: (1) the statutory provision which gave exclusive jurisdiction of all adoption matters to probate courts in any county that had a separate probate court did not confer exclusive adoption jurisdiction on the Superior Court's civil division; (2) the Superior Court's four divisions were for administrative convenience and venue, rather than imposition of jurisdictional limits; and (3) the Superior Court lacked discretion to retain venue of the proposed adoptions, and was obligated to transfer the case to the Juvenile Court.

DCS removed Mother's and Father's two children, and adjudicated the children to be CHINS. In November 2012, Mother's and Father's parental rights to the oldest child were terminated, and in April 2013, DCS filed a petition to terminate Mother's rights to the younger child. Both children had been with a foster parent ("Foster Parent") who wished to adopt the children. However, in March 2013, DCS requested a change in placement. Foster Parent had used a picture of one of the children and some confidential information about the case to set up a fundraising website to pay for expenses related to raising the children, because she often could not work due to their medical needs. The Lake County Juvenile Division ("Juvenile Court") granted DCS's motion, and the children were removed from Foster Parent's care. In April 2013, Foster Parent filed a petition to intervene in Juvenile Court, stating that she wished to pursue adopting the children, and this motion was denied. On June 3, 2013, Foster Parent filed a petition in the Lake Superior Court ("Superior Court") to adopt the children, and on June 12, 2013, filed a motion in Juvenile Court asking the court to reconsider its denial of her intervention in the CHINS proceedings. Juvenile Court denied the motion again. On June 20, 2013, DCS filed a motion to intervene in the Superior Court adoption proceedings, and filed a motion to transfer the proceedings to Juvenile Court. Superior Court denied both of DCS's motions. The Court of Appeals affirmed the Superior Court in **In Re Adoption of J.T.D.**, 5 N.E.3d 786 (Ind. Ct. App. 2014), holding that the Indiana General Assembly statutorily conferred exclusive jurisdiction over adoption proceedings on probate courts, and since the Lake County Civil Division has probate jurisdiction, it therefore has exclusive jurisdiction over adoption proceedings. The Indiana Supreme Court granted transfer, thereby vacating the Court of Appeal opinion.

**The Court determined that because Lake County has no “separate probate court,” the exclusive jurisdiction provision of IC 31-19-1-2 does not apply to Lake County courts, both civil and juvenile divisions.** *Id.* at 827. IC 31-19-1-2 provides that a probate court has exclusive jurisdiction in all adoption matters, but the first part of the statute also provides that it applies only to each Indiana county that has a separate probate court. *Id.* However, IC 33-33-45-21(a) provides that in Lake County, the civil division, which includes probate, is a part of the Superior Court. *Id.* at 828. Therefore, Lake County has no separate probate court, and IC 31-19-1-2, by its own terms, does not apply to Lake County. *Id.*

**The Court then held that the division of the caseloads of the Lake County Superior Court was a matter of venue, not jurisdiction, because the Superior Court is one court of broad original, concurrent jurisdiction, shared amongst its several divisions.** *Id.* at 828. The Court noted that superior courts are created by statute, and generally have original and concurrent jurisdiction in all civil and criminal cases. *Id.* The Indiana Code contains provisions which are unique to each county’s superior court system, and these provisions must be construed together with the general provisions of IC 33-29 “‘to produce a harmonious statutory scheme’ if possible.” *Id.* If two statutes have an unresolvable conflict, then the more detailed statute prevails over the less detailed statute. *Id.* The Court determined that if the divisions were a matter of jurisdiction, then the Lake County Caseload Plan (“Caseload Plan”) could not alter the divisions, as local rules may not conflict with rules established by statutes. *Id.* at 828. However, if the divisions were a matter of venue, then there was no conflict between statute and the Caseload Plan, and the adoption should have been transferred as required by the Caseload Plan. *Id.*

In concluding that the Superior Court’s four statutory divisions were a matter of venue, the Court observed that the Lake County statutes expressly create one Superior Court and refer to it as a single court with four divisions, two of which are juvenile and civil, which includes probate. *Id.*, citing IC 33-33-45-3 and IC 33-33-45-21(a). The Court noted that nothing in IC 33-33-45-21(a) [creation of Lake County’s four divisions] mentions jurisdiction or confers exclusive jurisdiction on any particular section of the Superior Court. *Id.* at 829. The Court was reluctant to “read the two-word parenthetical ‘(including probate)’ as vesting exclusive probate jurisdiction in the Civil Division.” *Id.* The Court also opined that interpreting the divisions as jurisdictional would render the next sentence of IC 33-33-45-21(a) meaningless. *Id.* IC 33-33-45-21(a) provides that “[t]he court is divided into civil (including probate), criminal, county, and juvenile divisions. The work of the court shall be divided among the divisions *by the rules of the court.*” *Id.* (emphasis in opinion). The Court further opined that “the ‘work of the court’ could not possibly be ‘divided’ between the divisions by local ‘rules of the court’ as the statute contemplates if the divisions’ names reflected hard-and-fast jurisdictional limits.” *Id.* The Court concluded that Foster Parent’s interpretation of the statutes as jurisdictional would result in an inconsistent and nonsensical reading of the statute. *Id.*

The Court, quoting *Benham v. State*, 637 N.E.2d 133, 136-37 (Ind. 1994), noted that venue statutes and rules “do not confer jurisdiction but rather prescribe the location at which trial proceedings are to occur from among the courts empowered to exercise jurisdiction.” *J.T.D.* at 829. The Court concluded that the only way to harmonize both statutory provisions was to read

the divisions as sharing full subject matter jurisdiction of the Superior Court, and leaving the names of the court to be a simple matter of venue that could be varied by local court rules. Id.

**The Court concluded that its statement in In Re Adoption of T.B., 622 N.E.2d 921 (Ind. 1993) regarding the Juvenile Division lacking probate jurisdiction was dicta, and therefore, not binding precedent for the present case. Id. at 830-831.** The Court noted that its interpretation and reconciliation of the statutory provisions appeared to be at odds with In Re Adoption of T.B., 622 N.E.2d at 924, which stated in part that the “juvenile division does not have jurisdiction in probate matters and, thus, cannot assert jurisdiction in an adoption proceeding.” J.T.D. at 830. However, the Court agreed with DCS’s argument that this was dicta for the following reasons: (1) the issue in T.B. was whether Circuit Court had adoption jurisdiction, not whether the Juvenile Division lacked adoption jurisdiction, which therefore rendered any discussion of the Juvenile Division’s probate jurisdiction wholly unnecessary; (2) T.B. did not involve the statute creating the court’s divisions, but rather, addressed an apparent conflict between two explicit jurisdictional statutes; and (3) T.B. did not provide detailed statutory analysis, since the parties had made stipulations and concessions that obviated that need. Id.

**The Court held that the Lake Superior Court did not have the ability to retain venue of the adoption because the Caseload Allocation Plan did not contradict or overrule a statute. Id. at 831.** The Court noted that the Caseload Allocation Plan called for all adoptions of minors to be filed in Juvenile Division; however, Lake Superior Court had determined that because it had subject matter jurisdiction over adoptions, it did not have to transfer the adoption case to Juvenile Division. Id. The Court again noted that venue and jurisdiction were two separate matters; while Superior Court may have had jurisdiction, it was not the proper venue because the Caseload Allocation Plan provided otherwise. Id. Since the Court had already determined that the Caseload Allocation Plan was consistent with Indiana Code, both the Superior Court and Foster Parent were bound by the Caseload Allocation Plan’s venue provisions. Id. at 832.