

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR FATHER

Lisa Johnson
Brownsburg, Indiana

ATTORNEY FOR MOTHER

Anne Medlin Lowe
Fugate Gangstad Lowe LLC
Carmel, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General
Indianapolis, Indiana

Monika Prekopa Talbot
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In the Matter of: A.G. (Minor
Child)

Child in Need of Services,

J.G. (Father) and R.G. (Mother),

Appellants-Respondents,

v.

Indiana Department of Child
Services,

Appellee-Petitioner

July 21, 2023

Court of Appeals Case No.
23A-JC-338

Appeal from the Vigo Circuit
Court

The Honorable Daniel W. Kelly,
Judge

Trial Court Cause No.
84C01-2209-JC-000925

Memorandum Decision by Judge May

Chief Judge Altice and Judge Foley concur.

May, Judge.

[1] J.G. (“Father”) and R.G. (“Mother”) (collectively, “Parents”) appeal the adjudication of their child, A.G. (“Child”), as a Child in Need of Services (“CHINS”). Mother and Father make several arguments, which we restate and reorganize below:

1. Arguments regarding the trial court’s findings

1.1 Father argues the Department of Child Services (“DCS”) did not present sufficient evidence to support the trial court’s findings that Father lacked safe and stable housing, domestic violence occurred between Mother and Father, Father had substance abuse issues, and Father had not contacted DCS for at least a month prior to the fact-finding hearing on December 27, 2022; and

1.2 Mother argues DCS did not present sufficient evidence to support the trial court’s findings that Mother lacked safe and stable housing, Mother had mental health and substance abuse issues, and conflict existed between Mother and Father.

2. Arguments regarding the trial court’s conclusions

2.1 Father argues the trial court’s findings did not support the trial court’s conclusions that Child’s physical or mental condition was seriously impaired or endangered by Father’s action or inaction, and that Child needed care, treatment, or rehabilitation that she is not receiving and is unlikely to be provided or accepted without the intervention of the court.

2.2 Mother argues the trial court’s findings did not support the trial court’s conclusions that Child’s physical or mental condition was seriously impaired or endangered by Mother’s action or inaction, and that Child needed care, treatment, or rehabilitation that she is not receiving and is unlikely to be provided or accepted without the intervention of the court.

We affirm.

Facts and Procedural History

[2] Parents are the parents of Child, who was born June 17, 2022. At the time of Child’s birth and shortly thereafter, the family lived in Olney, Illinois. On September 7, 2022, Parents and Child were visiting family in Indiana. While Parents and Child were in Indiana, DCS received a report that Child “was a victim of physical abuse, there was [sic] concerns with unsafe home conditions, domestic violence and caregiver impairment.” (Tr. Vol. II at 51.) DCS attempted to contact Mother, but she “refused to meet with anybody.” (*Id.* at 52.) Father met with Family Case Manager (“FCM”) Alathia Bowden of DCS. Father “reported that he had concerns with [Child] of [sic] her safety, being the care of [Mother], stating that she was using illegal substances and that [Mother] was not mentally stable to care for [Child].” (*Id.*)

- [3] The next day, Parents, along with another person who provided care to Child, Tiffany,¹ met with FCM Bowden at the DCS offices. During that conversation, Father “was unable to maintain a conversation with [Mother] in the room[,]” (*id.*), and became agitated. FCM Bowden attempted to deescalate the situation, and Father, who has a serious heart condition, told her that “he was gonna stop taking his heart medication and he was just going to give up.” (*Id.*) Mother told FCM Bowden “that she threatened to stab [Father] but that [Mother] didn’t threaten to stab herself or [Child], at that time.” (*Id.* at 14.) Parents refused to submit to drug tests.
- [4] Tiffany reported to FCM Bowden that Child did not have a “safe sleep environment” and Child “was sleeping in the car seat.” (*Id.*) FCM Bowden provided Parents with a pack and play for Child to sleep in. Parents were living with Tiffany and FCM Bowden asked to see the home. Mother would not allow FCM Bowden to inspect the home.
- [5] On September 12, 2022, FCM Bowden held an emergency child and family team meeting with Parents at the DCS office to “address the safety concerns that got [DCS] involved and to create a plan together to figure out how to ensure the safety of [Child].” (*Id.* at 12.) Donna Whitmer, a case manager with a local service agency, also attended the meeting. FCM Bowden was unable to

¹ The record does not include Tiffany’s last name.

complete the meeting because Parents would not stop arguing. Parents again refused to complete drug screens.

[6] After FCM Bowden terminated the meeting, Mother went outside and Father went to the family's vehicle and took out a tote of his belongings. FCM Bowden noticed the pack and play she provided Parents the week prior was still in the vehicle. Mother told Father she "didn't want to be around [Father], didn't want to be in the same room with him[.]" (*Id.*) Mother took Child, got into the vehicle and "yell[ed] and flip[ed] [Father] off" as she drove away. (*Id.*) Father returned to the DCS office and "was very paranoid that [Mother] was gonna come back and steal his belongings." (*Id.*)

[7] Whitmer then drove Father to his friend's house, where he was staying. The friend, Donna,² told Whitmer "[Mother] had made statements that [Mother] was going to stab [Child], [Mother] had reported that [Mother] was gonna stab [Father], as well as kill all of them in a car crash." (*Id.* at 13.) Father also told Whitmer that Mother falsely accused Father of molesting Child and Father was "very concerned with the safety of [Child] in [Mother's] care." (*Id.* at 14.) Whitmer contacted law enforcement, who helped FCM Bowden remove Child from Mother's care. Child was placed in foster care, where she has remained throughout the proceedings. Shortly after DCS removed Child from Parents' care, someone threw a brick through the window of the DCS office. Police

² The record does not include Donna's last name.

collected evidence and were able to link the attack to Mother. Police arrested Mother, and the State subsequently charged Mother with one or more crimes related to the incident.³

[8] On September 14, 2022, DCS filed a petition alleging Child was a CHINS based on multiple allegations: Mother’s threats against Father and Child, Mother’s other erratic behavior, Mother’s refusal to allow DCS to inspect the living environment in which she and Child lived, Father’s alleged mental health and substance abuse concerns, Mother’s alleged mental health and substance abuse concerns, Mother’s criminal history, and Mother’s past experience with DCS such that she had “6 known children whom she does not have custody of, and one of which she assaulted with a baseball bat.” (Mother’s App. Vol. II at 24.) Shortly after DCS filed its petition, FCM Heather Scott became the FCM for the case.

[9] On September 20, 2022, police arrested Father for Level 6 felony possession of methamphetamine⁴ and Class B misdemeanor possession of marijuana.⁵ On October 25, 2022, Father pled guilty to Level 6 felony possession of methamphetamine and was sentenced to 545 days in prison, which the trial court suspended to probation. On November 10, 2022, Father submitted to a

³ The exact charges are not clear from the record. At the time of the fact-finding hearing, these charges were still pending.

⁴ Ind. Code § 35-48-4-6.1(a).

⁵ Ind. Code § 35-48-4-11(a)(1).

random drug screen that came back positive for methamphetamine and amphetamine. On November 20, 2022, Father submitted to another random drug screen, and this one came back negative. Mother refused to submit to any random drug screens. Father was arrested again on November 22, 2022, but the record does not indicate the reason for the arrest or any subsequent charges.

[10] Parents attended supervised visitation with Child. Parents participated in three visits in October 2022. In November, Father visited with Child once alone, Parents visited with Child together twice, and one visit was canceled. In December, Parents participated in two of three supervised visits with Child.

[11] On December 27, 2022, the trial court held a fact-finding hearing on DCS's petition alleging Child was a CHINS. FCM Scott testified she was concerned that Parents did not have stable housing at the time of the hearing. Father reported he and Mother were living with Mother's aunt, and Mother reported she and Father were in the process of buying a two-story building in Ridge Farm, Illinois, where the family planned to live. Parents reported they worked for Door Dash and Grub Hub, and Mother did "work through Viber, and a lot of that is business marketing." (Tr. Vol. II at 95.) DCS also entered into evidence documents about Parents' individual criminal histories. FCM Scott testified Parents had been willing to engage in home-based family services, but she had not been able to speak with either parent in about a month due to their

respective incarcerations.⁶ FCM Scott told the trial court that Parents need to work on “boundaries, communication skills, accountability, stable housing and substance abuse.” (*Id.* at 87.)

[12] On December 28, 2022, the trial court issued its order adjudicating Child as a CHINS. The trial court found:

First of all, the evidence indicated that the parties have lacked safe and stable housing for [Child] for most of the time since removal in September 2022. [Mother] texted the FCM a photo of a home in Olney, Illinois on November 14 and said that [Parents] were living there at that time. The parties indicated between November 14 and now that home has collapsed. The parties were living somewhere off Wabash Avenue, and the FCM testified that Father said there were problems with that house. The parties are hoping to move into a “building” in Farm Ridge, Illinois, but said it has to be inspected first.

In addition, the court found the testimony of [FCM Bowden] to be credible to the effect that [Father] had expressed concerns for [Child’s] safety due to his concerns of [sic] Mother’s mental health issues and substance abuse. That [Father] had concerns about [Mother’s] unpredictability was supported by [FCM Bowden’s] uncontradicted testimony that at a meeting at the DCS office, [Father] repeatedly expressed concern that, while he was meeting with the family case manager to discuss the case, he feared [Mother] was going to come to the DCS office and vandalize the belongings that he had retrieved from their van and brought into the DCS building. Much of [Mother’s] extensive

⁶ It is not clear from the record when the arrests associated with these incarcerations occurred or whether any charges arose therefrom.

DCS history involves acts of violence believed to be related to mental health and/or substance abuse issues.

[Mother] admits to making allegations against [Father] regarding coming at her physically, whereupon she drew a knife in self-defense. In the fact-finding hearing, she testified that she had made up lies about [Father]. The version of the incident that [Father] provided to DCS was that [Mother] had threatened to stab him, the baby and herself while holding a knife. He further told DCS that she had threatened to intentionally crash their vehicle with all three of them inside.

At the same time as [Mother's] behavior causes concerns for [Child's] well-being, [Father] too appears to have his own substance abuse issues. He was arrested and charged with possession of methamphetamine in September 2022, the same month this DCS assessment was called in, and he has tested positive for methamphetamine in one of the two screens he has submitted at [DCS's] request. In addition, in meetings at the DCS office, [Father] was unable to complete a meeting due to his high level of agitation, which is consistent with methamphetamine use. Similarly, [Father] had to be repeatedly asked to refrain from speaking out while [Mother] was testifying in the fact-finding hearing, which again supports an inference of ongoing substance abuse. Neither party has contacted DCS since November, despite [Child] being in foster care, although they have participated in some of the recommended services, including supervised visitation.

(Mother's App. Vol. II at 42-3.) Based thereon, the trial court stated, "the court believes that the safety of [Child] cannot presently be ensured in either home. [Child] is hereby found by a preponderance of the evidence to be a [CHINS]." (*Id.* at 43.)

[13] On January 24, 2023, the trial court held its dispositional hearing. On January 31, 2023, the trial court issued its dispositional order. The trial court ordered Father to, among other things, maintain contact with DCS; maintain suitable, safe and stable housing; obtain and maintain a legal source of income; refrain from consuming, manufacturing, or selling illegal substances; refrain from using alcohol; obey the law; complete a parenting assessment and follow all recommendations; complete a substance abuse assessment and follow all recommendations; submit to random drug screens; abide by the terms of his probation; complete a psychological evaluation and follow all recommendations; and visit with Child. The trial court ordered Mother to do the same.

Discussion and Decision

[14] Father and Mother separately argue the trial court erred when it adjudicated Child as a CHINS. Because a CHINS proceeding is a civil action, DCS must prove by a preponderance of the evidence that a child is a CHINS as defined by the juvenile code. *In re N.E.*, 919 N.E.2d 102, 105 (Ind. 2010). DCS alleged Child was a CHINS pursuant to Indiana Code sections 31-34-1-1, 31-34-1-2, and 31-34-12-4. Indiana Code section 31-34-1-1 states:

A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's physical or mental condition is seriously impaired or seriously endangered as a result of the

inability, refusal, or neglect of the child’s parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision:

(A) when the parent, guardian, or custodian is financially able to do so; or

(B) due to the failure, refusal, or inability of the parent, guardian, or custodian to seek financial or other reasonable means to do so; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

[15] A CHINS adjudication focuses on the needs and condition of the child, rather than the culpability of the parent. *In re N.E.*, 919 N.E.2d at 105. The purpose of a CHINS adjudication is not to punish the parent but to provide proper services for the benefit of the child. *Id.* at 106. “[T]he acts or omissions of one parent can cause a condition that creates the need for court intervention.” *Id.* at 105. “A CHINS adjudication can also come about through no wrongdoing on the part of either parent[.]” *Id.*

While we acknowledge a certain implication of parental fault in many CHINS adjudications, the truth of the matter is that a CHINS adjudication is simply that - a determination that a child is in need of services. Standing alone, a CHINS adjudication does not establish culpability on the part of a particular parent.

Only when the State moves to terminate a particular parent's rights does an allegation of fault attach. We have previously made it clear that CHINS proceedings are "distinct from" involuntary termination proceedings. The termination of the parent-child relationship is not merely a continuing stage of the CHINS proceeding. In fact, a CHINS intervention in no way challenges the general competency of a parent to continue a relationship with the child.

Id. (citations omitted).

- [16] When a trial court enters findings of fact and conclusions of law in a CHINS decision, we apply a two-tiered standard of review. *In re Des. B.*, 2 N.E.3d 828, 836 (Ind. Ct. App. 2014). We consider first whether the evidence supports the findings and then whether the findings support the judgment. *Id.* We may not set aside the findings or judgment unless they are clearly erroneous. *Id.* Findings are clearly erroneous when the record contains no facts to support them either directly or by inference, and a judgment is clearly erroneous if it relies on an incorrect legal standard. *Id.* We give due regard to the trial court's ability to assess witness credibility and do not reweigh the evidence; we instead consider the evidence most favorable to the judgment with all reasonable inferences drawn in favor of the judgment. *Id.* We defer substantially to findings of fact but not to conclusions of law. *Id.* Unchallenged findings "must be accepted as correct." *Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1991).

1. Arguments Regarding Trial Court's Findings

1.1 *Father's Challenged Findings*

[17] Father contends DCS did not present sufficient evidence to support some of its findings. Specifically, Father asserts DCS did not present evidence Father lacked safe and stable housing, domestic violence existed between Mother and Father, Father had substance abuse issues, and Father had not contacted DCS for at least a month prior to the fact-finding hearing on December 27, 2022.⁷

[18] DCS presented evidence that Parents lacked safe and stable housing. Parents lived in multiple places during the CHINS proceedings and denied DCS access to some of those locations and, thus, DCS could not assess the safety of the residence. At the time of the fact-finding hearing, FCM Scott testified she did not know where Parents were living and, thus, had been unable to inspect that residence. Father gave conflicting testimony regarding Parents' living situation at the time of the fact-finding hearing – first, he testified he and Mother were living with Mother's aunt in Terre Haute and, later, he testified they were living out of their van in Peoria, Illinois. Based thereon, we conclude DCS presented sufficient evidence Father lacked safe and stable housing. Father's argument is an invitation for us to reweigh the evidence and judge the credibility of

⁷ Father also argues DCS did not present evidence Child had been a victim of physical violence, Father had mental health issues, and Father had not heeded FCM Bowden's request that Child sleep in a pack and play and not her car seat. However, the trial court did not make findings regarding these issues, so we need not review Father's claims of insufficient evidence.

witnesses, which we cannot do. *See In re Des. B.*, 2 N.E.3d at 836 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[19] Next Father contends DCS did not present evidence domestic violence-related issues existed between Mother and Father. FCM Bowden testified Father and Donna told her about a domestic violence incident during which Mother had threatened Father and Child with a knife. Additionally, Father and Donna told FCM Bowden that Mother had threatened to crash the family car with Father and Child in it. At an emergency meeting regarding Child's safety, Mother and Father got into an argument that resulted in Father removing his belongings from the vehicle. After Father removed his belongings, Mother drove the vehicle away and made obscene gestures at Father as she did so. Based thereon, we conclude DCS presented sufficient evidence of domestic violence issues between Mother and Father. Father's argument is an invitation for us to reweigh the evidence and judge the credibility of witnesses, which we cannot do. *See In re Des. B.*, 2 N.E.3d at 836 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[20] Father also asserts DCS did not present sufficient evidence he had substance abuse issues. At the fact-finding hearing, DCS introduced evidence that, on September 20, 2022, Father was arrested in Parke County and subsequently charged with Level 6 felony possession of methamphetamine and Class B misdemeanor possession of marijuana. On October 25, 2022, Father pled guilty to Level 6 felony possession of methamphetamine. Additionally, Father tested positive for methamphetamine during one of his drug screens. Based

thereon, we conclude DCS presented sufficient evidence that Father had substance abuse issues. Father’s argument is an invitation for us to reweigh the evidence and judge the credibility of witnesses, which we cannot do. *See In re Des. B.*, 2 N.E.3d at 836 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[21] Finally, Father argues DCS did not present sufficient evidence that he did not communicate with DCS for approximately one month prior to the fact-finding hearing. FCM Scott testified she had not spoken to Father in person since November 28, 2022, but “[d]uring the month of December, we had conversation during - through text messages through providers.” (Tr. Vol. II at 83.) Based thereon, we conclude DCS did not present sufficient evidence that Father failed to contact DCS for approximately one month prior to the fact-finding hearing because Father communicated to FCM Scott during December via text message, albeit through service providers. However, as we will discuss later in the opinion, this finding is ultimately superfluous and not fatal to Child’s CHINS adjudication. *See Lasater v. Lasater*, 809 N.E.2d 380, 397 (Ind. Ct. App. 2004) (“To the extent that the judgment is based on erroneous findings, those findings are superfluous and are not fatal to the judgment if the remaining valid findings and conclusions support the judgment.”).

1.2 Mother’s Challenged Findings

[22] Mother also contends DCS did not present sufficient evidence to support some of its findings. Specifically, Mother asserts DCS did not present sufficient evidence to support the trial court’s findings that Mother lacked safe and stable

housing, Mother had mental health and substance abuse issues, and conflict existed between Mother and Father.⁸

[23] As noted in our analysis of Father's argument regarding the trial court's finding that Parents did not have safe and stable housing, FCM Scott testified that, at the time of the fact-finding hearing, she did not know where Parents lived. Parents also lived with multiple people at multiple residences during the approximately three-month period between the filing of the CHINS petition and the CHINS fact-finding hearing. Regardless of where Mother lived at the time of the fact-finding hearing, FCM Scott had been unable to assess the suitability of that residence. Based thereon, we conclude DCS presented sufficient evidence Mother lacked safe and stable housing. Mother's argument is an invitation for us to reweigh the evidence and judge the credibility of witnesses, which we cannot do. *See In re Des. B.*, 2 N.E.3d at 836 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[24] Next, Mother argues DCS did not present sufficient evidence she had mental health and substance abuse issues. Mother argues DCS did not present evidence she had been diagnosed with a mental illness and thus the trial court's finding was erroneous. However, the trial court's findings noted FCM Scott's

⁸ Mother also argues DCS did not present sufficient evidence to support the trial court's finding that Mother's prior children had been adjudicated as CHINS. The trial court did not make a finding that Mother's other children had been declared CHINS. Instead, it made a finding regarding Mother's history with DCS, including an incident during which she struck one of her children with a baseball bat. As the trial court did not make a finding regarding any CHINS adjudications involving Mother's other children, we need not consider her argument.

concern about Mother's mental health issues but did not indicate a specific diagnosis. To support that concern, DCS presented evidence of Mother's erratic behavior during the initial assessment and Mother's threats to harm Father and Child. Additionally, regarding Mother's substance abuse, Mother admitted to DCS that she had used drugs in the past, and Mother refused to submit to a drug screen at any time prior to the fact-finding hearing. Based thereon, we conclude DCS presented sufficient evidence Mother had mental health and substance abuse issues. Mother's argument is an invitation for us to reweigh the evidence and judge the credibility of witnesses, which we cannot do. *See In re Des. B.*, 2 N.E.3d at 836 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

[25] Finally, Mother argues DCS did not present sufficient evidence conflict existed between Mother and Father. As noted in the prior section addressing Father's argument regarding this issue, FCM Bowden reported several instances of conflict between Parents. For example, Mother and Father argued to the point that one of the meetings with DCS had to be prematurely concluded. Additionally, Father and Donna reported to FCM Bowden that Mother threatened to stab Father and Child and crash the family vehicle with the family in it. Based thereon, we conclude DCS presented sufficient evidence that there existed conflict between Mother and Father. Mother's argument is an invitation for us to reweigh the evidence and judge the credibility of witnesses, which we cannot do. *See In re Des. B.*, 2 N.E.3d at 836 (appellate court cannot reweigh evidence or judge the credibility of witnesses).

2. Arguments Regarding the Trial Court's Conclusions

2.1 Father's Arguments

[26] Father argues the trial court erred when it adjudicated Child as a CHINS because the trial court's findings do not support its conclusions that Child's physical or mental condition is seriously impaired or endangered by Father's action or inaction and that Child needs care, treatment, or rehabilitation that she is not receiving and is unlikely to be provided or accepted without the intervention of the court. Specifically he contends there are no findings that indicate Child was in danger or her needs were unmet because "[t]here is no evidence that Parents ever abused [Child] or failed to provide for any of her needs" and, when Child visited with Parents, "she was alert and happy, and she appeared to be well cared for." (Father's Br. at 11.) Further, Father asserts "[t]here is no evidence that Father or Mother mistreated or neglected [Child] during supervised visits or at any other time." (*Id.*)

[27] However, the CHINS statute is intended to protect children who are "endangered by parental action or inaction" and a court need not "wait until a tragedy occurs to intervene." *In re A.H.*, 913 N.E.2d 303, 306 (Ind. Ct. App. 2009). The trial court made numerous findings illustrating Father's actions or inactions endangered Child. As we held in the section above specific to Father, the evidence supported the trial court's findings that the family's housing situation was unstable, Father had substance abuse issues, and domestic violence issues existed between Mother and Father. Based thereon, we conclude the trial court's findings supported its conclusions that Child's needs

were unmet or Child was endangered by Father's action or inaction. *See In re V.C.*, 867 N.E.2d 167, 182 (Ind. Ct. App. 2007) (affirming adjudication of child as a CHINS based on mother's pattern of harmful behavior).

[28] Further, Father did not participate in any services that would address any of those issues except for two drug screens, one of which returned positive for methamphetamine and amphetamine. Based thereon, we conclude the court's coercive intervention was necessary to provide Child with care she was not receiving. *Contra Matter of E.K.*, 83 N.E.3d 1256, 1262 (Ind. Ct. App. 2017) (reversing CHINS adjudication because DCS did not prove coercive intervention of the court was necessary when parents had made great strides in addressing the issues that resulted in CHINS investigation, retained custody of their children, and were actively participating in treatment), *trans. denied*.

2.2 Mother's Arguments

[29] Mother argues the trial court erred when adjudicated Child as a CHINS because the trial court's findings do not support its conclusions that Child's physical or mental condition is seriously impaired or endangered by Mother's action or inaction and that Child needs care, treatment, or rehabilitation that she is not receiving and is unlikely to be provided or accepted without the intervention of the court. Mother's arguments regarding the trial court's conclusions are intertwined with those challenging the trial court's findings, all of which we addressed in the prior portion of this opinion, where we determined the findings were supported by the evidence. Mother also asserts

she participated in services such that the court's coercive intervention was not necessary.

[30] The trial court found the family's housing was unstable and Mother and Father lived in multiple places between September and December 2022. Mother made several threats against Father and Child, including indicating she would stab Father and Child or crash the family car with all three inside. Mother has a history of DCS investigations, including an incident during which she struck Child's older half-sibling with a baseball bat. Based thereon, we conclude the trial court's findings support its conclusions that Child's physical or mental condition is seriously impaired or endangered by Mother's action or inaction. *See Matter of L. T.*, 145 N.E.3d 864, 872 (Ind. Ct. App. 2020) (child endangered and needs unmet based on history of domestic violence and physical abuse of child and older siblings).

[31] Mother also contends she has participated in services and "the record contains no evidence of any care, treatment, or services [Child] needs and will not receive absent state intervention." (Mother's Br. at 23.) Regarding Mother's participation in services, the trial court found, "Neither party has contacted DCS since November, despite their child being in foster care, although they have participated in some of the recommended services, including supervised visitation." (Mother's App. Vol. II at 73.) During the fact-finding hearing, Mother testified she had been in individual therapy since 2014 because of a CHINS case involving Mother's older child. Mother testified she and Father were meeting with providers to engage in couples counseling. However, at the

same time, Mother had not completed any of the ordered random drug testing nor did she provide information about a residence DCS could inspect to ensure Child's safety there. Mother's arguments are invitations for us to reweigh the evidence and judge the credibility of witnesses, which we cannot do. *See In re Des. B.*, 2 N.E.3d at 836 (appellate court cannot reweigh evidence or judge the credibility of witnesses). Therefore, we conclude the trial court's findings support its conclusion that the court's coercive intervention was required here. *Contra Matter of E. Y.*, 126 N.E.3d 872, 878 (Ind. Ct. App. 2019) (family did not have a history of DCS intervention or criminal charges and, after initial DCS involvement based on unsubstantiated allegations of domestic violence, the coercive intervention of the court was not required as to father because he had participated in services and children were provided services).

Conclusion

[32] The trial court's findings regarding Father's housing instability, domestic violence with Mother, and substance abuse issue were supported by the evidence. The trial court's finding that Father had not contacted DCS for at least a month prior to the December 27, 2022, fact-finding hearing was not supported by the evidence, however, that finding was superfluous and not a reason to reverse Child's CHINS adjudication. Additionally, the trial court's findings regarding Mother's housing instability, mental health and substance abuse issues, and domestic violence issues with Father were supported by the evidence. Further, the trial court's findings supported its conclusions that

Child's physical or mental condition is seriously impaired or endangered by Father's action or inaction and that Child needs care, treatment, or rehabilitation that she is not receiving and is unlikely to be provided or accepted without the intervention of the court. Finally, the trial court's findings supported its conclusions that Child's physical or mental condition is seriously impaired or endangered by Mother's action or inaction and that Child needs care, treatment, or rehabilitation that she is not receiving and is unlikely to be provided or accepted without the intervention of the court. Based thereon, we affirm Child's adjudication as a CHINS.

[33] Affirmed.

Altice, C.J., and Foley, J., concur.