

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

C.S. (Minor Child),

And

T.S. (Father),

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner.

March 30, 2023

Court of Appeals Case No.
22A-JC-1852

Appeal from the Howard Circuit
Court

The Honorable Lynn Murray,
Judge

Trial Court Cause No.
34C01-2203-JC-126

Memorandum Decision by Judge Riley.
Chief Judge Altice and Judge Pyle concur.

Riley, Judge.

STATEMENT OF THE CASE

[1] Appellant-Respondent, T.S. (Father), appeals the trial court's dispositional Order requiring him to pay child support.

[2] We affirm.

ISSUE

[3] Father raises one issue on appeal, which we restate as the following: Whether the trial court abused its discretion in ordering Father to pay child support.

FACTS AND PROCEDURAL HISTORY

[4] Father and C.S. (Mother)¹ are the biological parents of C.S. (Child), born on January 24, 2013. In 2022, Child resided under the care of Father and Father's girlfriend (Girlfriend) in Howard County, Indiana. On March 23, 2022, the Department of Child Services (DCS) received a report alleging that Child was a victim of neglect and abuse caused by Father and Girlfriend.

[5] Family case managers Chris Helton (FCM Helton) and Jada Cuttriss (FCM Cuttriss) investigated the report. Child disclosed to them that Father and Girlfriend had used their hands and a belt to beat her and had choked and pushed her several times into a wall. Additionally, Child reported that Father

¹ Mother does not participate in this appeal, and we primarily focus on facts pertaining to Father.

and Girlfriend had threatened to hit her with a hammer, which caused her to urinate on herself. The beatings occurred over a span of days, and Child expressed that she was fearful of Father. The school nurse also reported concerns of possible malnourishment or lack of food, as Child sought food from school staff and appeared thin, with noticeable ribs and spine. Child's hospital examination revealed multiple bruises on her legs, arms, stomach, throat, and back. Based on her injuries, DCS removed Child from Father's care and initially placed her with a relative; however, she was later placed in foster care.

[6] On March 28, 2022, DCS filed a petition seeking to have Child designated as a child in need of services (CHINS).² On April 22, 2022, Child was admitted to St. Vincent's Stress Center due to violent, aggressive behaviors, and she was subsequently diagnosed with disruptive mood dysregulation disorder, attention deficit hyperactivity disorder, post-traumatic stress disorder, and reactive attachment disorder. On April 29, 2022, the trial court ordered Child to be placed at St. Joseph's Carmelite Home in East Chicago, Indiana, a residential treatment facility for girls.³ On June 20, 2020, a fact-finding hearing for the CHINS petition pertaining to Father was held, and the trial court concluded that Child was a CHINS due to the bruising evidenced on Child after being

² Mother stipulated that Child was a CHINS on May 16, 2022, and the trial court adjudicated Child as CHINS.

³ On the same day, the State filed an Information, charging Father with Level 3 felony domestic battery resulting in serious bodily injury to a person less than 14 years old.

disciplined by Father and Girlfriend. The trial court continued placement of Child at Carmelite Home.

[7] On June 9, 2022, DCS filed a pre-dispositional report along with a child support obligation worksheet, imputing Mother's and Father's weekly gross income at \$290 and recommending Father and Mother to each pay weekly child support of \$51.00. Also, DCS filed a case plan/prevention plan that required Father, among other things, to participate in a batterer's intervention program and to maintain contact with Child. At the dispositional hearing on July 11, 2022, DCS requested that Child's placement remain at Carmelite Home. With regards to visits with Child, DCS recommended therapeutic visitations with Father if approved by Child's therapist, as well as home case management and a parenting assessment. With regard to Father's participation in the recommended services, Father argued that he had a pending charge of Level 3 felony battery and that his participation was unattainable. In addition, Father claimed that he had filed for voluntary termination of his parental rights to Child. In response, DCS argued that the fact that Father was unwilling to participate in any of the recommended services, it was requesting weekly child support of \$51.00, and \$0 for Mother based on her predicated level of participation. On the same day, the trial court issued a Financial Obligation Order, requiring Mother to pay \$0 in child support based on the fact that it would be unjust or inappropriate and requiring Father to pay \$51 effectively from July 15, 2022.

[8] Father now appeals. Additional information will be provided as necessary.

DISCUSSION AND DECISION

- [9] Father argues that the trial court abused its discretion when it ordered him to pay weekly child support of \$51.00. A trial court's calculation of child support is presumed to be valid, and we review the court's decision for abuse of discretion. *Thompson v. Thompson*, 811 N.E.2d 888, 924 (Ind. Ct. App. 2004), *trans. denied*. Reversal of a trial court's child support order is merited only where its determination is clearly against the logic and effect of the facts and circumstances before it or if it has misinterpreted the law. *Matter of Paternity of T.M.-B.*, 131 N.E.3d 614, 618 (Ind. Ct. App. 2019), *trans. denied*.
- [10] "As a general matter, child support awards comporting with the Indiana Child Support Guidelines bear a rebuttable presumption of correctness." *Quinn v. Threlkel*, 858 N.E.2d 665, 670 (Ind. Ct. App. 2006) (citing *In re Paternity of C.R.R.*, 752 N.E.2d 58, 61 (Ind. Ct. App. 2001)). Conversely, awards that deviate from the guidelines must be supported by proper written findings justifying the deviation. *Quinn*, 858 N.E.2d at 670. Child support calculations are made utilizing the income shares model set forth in the Indiana Child Support Guidelines. *Sandlin v. Sandlin*, 972 N.E.2d 371, 374 (Ind. Ct. App. 2012). The Indiana Child Support Guidelines provide that a parent's child support obligation is based upon his or her weekly gross income, which is defined as "actual weekly gross income of the parent employed to full capacity, potential income if unemployed or underemployed, and the value of 'in-kind' benefits received by the parent." Ind. Child Support Guideline 3(A)(1).

- [11] Father first contends that the trial court ordered him to pay child support without the benefit of a worksheet. Our review of the record indicates that in conjunction with its pre-dispositional report, DCS submitted a child support worksheet that attributed an equal weekly gross income of \$290 to Father and Mother, both of whom were unemployed. Moreover, the trial court stated that it had considered the worksheet when making its decision.
- [12] Father next argues that it was unreasonable for DCS to recommend that he pay child support based on his lack of participation in the services offered by DCS. He claims that such a requirement was “untenable since cooperation with the [DCS] would potentially compromise his defense” to the Level 3 felony battery charges he was facing in Howard County. (Appellant’s Br. p. 7). He also claims that if incarcerated, he would be unable to pay child support.
- [13] Our supreme court has held that “CHINS proceedings and proceedings to terminate parental rights (TPR), though non-criminal, can implicate a parent in criminal activity.” *Matter of Ma.H.*, 134 N.E.3d 41, 46 (Ind. 2019). “As a result, trial courts presiding over CHINS and TPR proceedings must remain conscientious of possible criminal implications and safeguard a parent’s constitutional rights – such as those guaranteed by the Fifth Amendment, including the privilege against self-incrimination.” *Id.* Father does not specify which reunification services would require him to admit guilt for the Level 3 felony battery charge. Moreover, we note that the child support order did not explicitly state that Father should be required to pay child support because he was not participating in services, despite DCS’s argument at the dispositional

hearing that he should. It appears, however, that the court gave consideration to the fact that Child had been placed in a residential institution, which requires the financial obligation to be met by Father and Mother. *See* Ind. Code § 31-40-1-5.

[14] In addition, Father fails to cite any authority that supports his assertion that he should not be required to pay child support because he was facing a criminal charge in Howard County, and that claim is therefore waived. *See Zoller v. Zoller*, 858 N.E.2d 124, 127 (Ind. Ct. App. 2006) (holding that a party waives any issue for which it fails to develop a cogent argument or support with adequate citation to authority). Even assuming Father is eventually incarcerated for the battery charge, that does not absolve him of the duty to pay child support. *See Lambert v. Lambert*, 861 N.E.2d 1176, 1179 (Ind. 2007) (holding that the policy of this state is to ensure children are supported adequately by their parents until the age of majority, and our courts do not “imagine that the legislature intended for incarcerated parents to be granted a full reprieve from their child support obligations while their children are minors”). The fact that Father had filed a petition seeking voluntary termination of his parental rights, was unemployed, was facing a criminal charge, or would potentially be incarcerated, does not grant him a reprieve and he still has a responsibility to provide financial support to Child. As noted, Child has been placed in Carmelite Home, a residential setting, and Indiana Code section 31-40-1-5 imposes an obligation on parents for the costs of their child’s institutional placement.

[15] In sum, we conclude that Father has not presented any argument that would persuade this court that the trial court abused its discretion in ordering him to pay child support, and we therefore affirm the trial court's Financial Obligation Order.

CONCLUSION

[16] Based on the foregoing, we conclude that the trial court did not abuse its discretion by ordering Father to pay child support.

Affirmed.

Altice, C. J. and Pyle, J. concur