

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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In the Matter of C.W. (Minor  
Child), Child Alleged to be a  
Child in Need of Services;

L.W. (Father) and C.P.  
(Mother),

*Appellants-Respondents,*

v.

Indiana Department of Child  
Services,

*Appellee-Petitioner.*

April 7, 2021

Court of Appeals Case No.  
20A-JC-2079

Appeal from the Vigo Circuit  
Court

The Honorable Sarah K. Mullican,  
Judge

The Honorable Daniel W. Kelly,  
Magistrate

Trial Court Cause No.  
84C01-2002-JC-324

**Najam, Judge.**

## **Statement of the Case**

- [1] L.W. (“Father”) appeals the juvenile court’s determination that his minor son, C.W. (“Child”), is a Child in Need of Services (“CHINS”).<sup>1</sup> Father raises a single issue for our review, which we restate as whether the Indiana Department of Child Services (“DCS”) presented sufficient evidence to support the court’s judgment. We affirm.

## **Facts and Procedural History**

- [2] In November of 2019, C.W. lived with Father. On November 25, DCS received a report of possible neglect of C.W. by Father at Father’s residence. DCS investigated and determined that C.W. had been engaged in self-harm, that Father had been drinking to the point of not being able to “function for the next few days,” and that Father had not been obtaining “proper mental health treatment” for Child. Appellant’s App. at 15. DCS filed a petition alleging Child to be a CHINS.
- [3] At an ensuing fact-finding hearing on DCS’s petition, Child testified that, while in Father’s care, he had been admitted into a mental-health facility for self-harm and feeling depressed. Upon his release, providers recommended follow-up

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<sup>1</sup> Child’s mother did not contest the CHINS petition in the juvenile court and does not participate in this appeal.

care, but the follow-up care did not happen. Child is also diabetic, and at the hearing he testified that Father had withheld essential medicine and supplies for that condition, which was “life threatening” to Child. Tr. Vol. II at 42. DCS Family Case Manager Katie Laloux also testified that Father had refused to cooperate with her, and, at times, he was “very hostile” toward her. *Id.* at 34.

[4] Following DCS’s initial intervention, Child began living with his mother. Since then, he has been able to keep his mental-health appointments, and his mental health has “never been better.” *Id.* at 41. He has also had no issues with any of his diabetes medication. He has visited with Father twice—the first visit ended early because Father became “belligerent,” and, when Child arrived for the second visit, he found all of his belongings “packed up.” *Id.* at 43.

[5] The juvenile court found Child to be a CHINS due to Father’s failure to provide Child necessary mental-health care and Father’s interference with Child’s diabetes medication. Thereafter, the court entered its dispositional order for Father to engage in services. This appeal ensued.

## **Discussion and Decision**

[6] Father appeals the juvenile court’s determination that Child is a CHINS. The court’s order determining Child to be a CHINS was based on findings of fact and conclusions thereon following an evidentiary hearing. In such appeals, we reverse only if the court’s judgment is clearly erroneous. *J.M. v. Ind. Dep’t of Child Servs. (In re N.C.)*, 72 N.E.3d 519, 523 (Ind. Ct. App. 2017). Findings are

clearly erroneous when there are no facts in the record to support them; a judgment is clearly erroneous if it relies on an incorrect legal standard. *Id.*

[7] Father asserts on appeal<sup>2</sup> that DCS’s evidence at the fact-finding hearing that Father’s behavior had endangered Child was insufficient because “Father was adept” at helping Child with his diabetic condition and because Father was “immediately” responsive to Child’s mental-health issues. Appellant’s Br. at 10-11. Father further argues that “the evidence in this matter . . . revealed that . . . C.W. became unhappy with [living with Father], and wanted to live with” his mother instead, and that the court erred when it apparently did not consider that possibility. *Id.* at 11-12. Finally, Father asserts that the juvenile court’s judgment is based on nothing more than “Father’s demeanor.” *Id.* at 12.

[8] Father’s arguments are not consistent with our standard of review and are not persuasive. The juvenile court found that Father had failed to provide for Child’s mental well-being and had interfered with Child’s diabetes medication. Those findings are supported by the evidence, especially Child’s own testimony. And the court’s conclusion that Father’s actions endangered Child are supported by those findings. Father simply seeks to have this court reweigh the

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<sup>2</sup> Father’s summary of his argument in his brief on appeal appears to be inconsistent with his actual argument and, as such, we disregard his summary.

evidence, which we will not do. We affirm the juvenile court's determination that Child is a CHINS.

[9] Affirmed.

Pyle, J., and Tavitas, J., concur.