

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of:

A.M., L.S. and W.D. (Minor
Children),

Children in need of Services,

and

M.B. (Mother),

Appellant-Respondent,

v.

July 15, 2022

Court of Appeals Case No.
22A-JC-261

Appeal from the Tippecanoe
Superior Court

The Honorable Faith A. Graham,
Judge

The Honorable Tricia L.
Thompson, Magistrate

Indiana Department of Child
Services,
Appellee-Petitioner.

Trial Court Cause Nos.
79D03-2109-JC-155, 79D03-2109-
JC-156, 79D03-1104-JP-182

Altice, Judge.

Case Summary

- [1] M.B. (Mother) appeals the juvenile court’s order adjudicating A.M. and L.S. to be children in need of services (CHINS). Mother argues that the evidence is insufficient to support the court’s determination that A.M. and L.S. are CHINS.
- [2] We affirm.

Facts & Procedural History

- [3] Mother has three children: A.M. (born October 2005), L.S. (born May 2007), and W.D. (born January 2010) (collectively, the Children). J.M. is the biological father (Father 1) of A.M.; J.S. is the biological father (Father 2) of L.S.; and T.D. is the biological father (Father 3) of W.D.¹ Mother had been

¹ Father 1 and Father 2 do not join in this appeal.

involved in three CHINS cases with the Tippecanoe County Department of Child Services' (DCS) prior to this current involvement.

[4] Specifically, in 2007, DCS filed a CHINS action regarding L.S. after L.S. tested positive for cocaine at birth. At that time, A.M. was in guardianship with Maternal Grandmother due to Mother's substance abuse and Father 1's incarceration. Mother completed a residential treatment for substance abuse and then participated in the Home with Hope program. Mother was terminated from the Home with Hope program after she "tested positive." *Appellant's Appendix Vol. II* at 44. She was found in contempt, and the court ordered her to complete inpatient treatment again. This first CHINS case was closed when L.S. was placed with Father 2. A.M. remained with Maternal Grandmother.

[5] In 2009, Mother received court-ordered substance abuse treatment as part of a criminal case. She was sober for two years following treatment but relapsed in 2011 and was incarcerated for two months.

[6] A second CHINS case was filed in 2015 after L.S. was removed from Father 2's care due to physical abuse and was placed in Mother's care. In March 2016, Mother relapsed on cocaine² resulting in L.S. being removed from her care and placed with Maternal Grandmother. The second CHINS case was closed in

² In December 2015, Mother had relapsed on alcohol and Xanax, which required Mother to visit an emergency room.

June of 2016 with Maternal Grandmother having “third party custody” of L.S.
Id.

[7] In March 2016, a third CHINS action was opened regarding A.M. and W.D. due to Mother’s relapses. At that time, Mother and the Children were living with Maternal Grandmother. Mother was ordered to vacate the home and the Children remained with Maternal Grandmother. The third CHINS action was closed in June of 2017 with Mother having custody of A.M. and W.D. Mother had supervised parenting time with L.S. and had been authorized to live in Maternal Grandmother’s home.

[8] In September 2021, the Children were living with Mother. On September 18, DCS received a report that Mother was using drugs, exhibiting paranoid behavior, and posting suicidal messages on social media. A DCS assessment worker met with Mother on September 21. Mother denied the allegations but told the case worker that she was concerned for the Children’s safety because she thought “the cartel” was going to “kill her.” *Transcript Vol. 2* at 34. She also believed that people were trying to break into her home, but she did not want to contact the police. She admitted to the assessment worker that she had used methamphetamine two weeks earlier. Concerned for Mother’s mental health, the assessment worker called for an ambulance to take Mother to the hospital. DCS placed the Children with Maternal Grandmother.

[9] On September 22, 2021, DCS filed a petition alleging the Children were CHINS. On September 23, 2021, a White County Sheriff’s deputy responded

to a report of an “unwanted guest” standing in a driveway, and upon arrival found Mother in the driveway of the residence in question. *Id.* at 42. The deputy told Mother she was trespassing and that she needed to leave. Mother responded that the residents of the home were in danger and that she needed to stay as she was the only one able to keep them safe. Mother could not explain why the residents were in danger, but she would look into the backyard and say that there were people there.

[10] After numerous requests, Mother agreed to leave but stopped halfway down the driveway and got out of her car. She was again instructed to leave. The deputy followed Mother as she drove toward Tippecanoe County. Along the way, Mother stopped several times before she abruptly pulled off the road and turned around, nearly causing an accident in the process. The deputy continued to follow Mother and attempted to stop her vehicle. Mother fled, leading the deputy and other officers on a 120 mile-per-hour pursuit back to the residence Mother had just left. There, Mother was arrested for reckless driving, resisting law enforcement with a vehicle, and trespass. The deputy offered to obtain medical services for Mother, but she declined those services.

[11] On September 29, 2021, Mother participated in an intake interview at Sycamore Springs where she was seeking treatment for mood issues and substance abuse.³ Mother’s medical records indicated that she has an

³ Mother previously sought services through the Partial Hospitalization Program (PHP) at Sycamore Springs in July 2021 but was unable to complete PHP due to issues with her insurance.

“extensive” history of methamphetamine use, starting at age nineteen or twenty. *Exhibits Vol. 2* at 119. Mother had been sober from methamphetamine for ten years but relapsed in April 2021. She admitted that she last used methamphetamine the week before her intake appointment. Mother tested positive for amphetamine, methamphetamine, and MDMA⁴ on a drug screen for Sycamore Springs.

[12] During her intake appointment, Mother told Katherine Hafer, a Psychiatric Mental Health Nurse Practitioner (NP Hafer), that her phones had been hacked and people were trying to get into her house. Mother showed a video that she claimed showed her locked in a bathroom and being choked with a zip tie by her aunt but Mother was alone in the video with nothing around her neck. Mother also indicated that she ended up in jail because someone stole her litter of puppies. NP Hafer believed Mother was, at that time, experiencing a “substance induced . . . psychosis.” *Transcript Vol. 2* at 24.

[13] When talking about her memory issues, Mother claimed she was experiencing “all the signs and symptoms of being treated for chemotherapy.” *Exhibits Vol. 2* at 118. Mother also told NP Hafer that she believed people were coming into her house and “doing things to make her think she was crazy,” that someone hacked her phone and all her pictures disappeared, and that someone at the hospital set her up to test positive for methamphetamine “even though [she]

⁴ MDMA is commonly known as Ecstasy or Molly. See National Institute on Drug Abuse found at www.nida.nih.gov/publications/drugfacts/mdma-ecstasymolly (last visited June 27, 2022).

wasn't using." *Id.* at 118, 119. Mother denied that her thoughts and behaviors were a result of a drug induced psychosis.

[14] In her report from the intake appointment, NP Hafer noted as follows:

Current symptoms include depressed mood, decreased energy, isolating, paranoia [about] others being out [to] get her—sleeping in her car because she is convinced someone keeps coming into her house despite changing her locks (has also bought numerous phones because she thinks they keep getting hacked), high anxiety, mood swings, irritability, varied sleep, decreased appetite, racing thoughts, poor focus and concentration, hopelessness, and worthlessness.

Id. at 119. Mother also reported to NP Hafer that she suffered from “blackouts,” where she could not remember things that happened to her for minutes to hours at a time. *Id.* at 121. NP Hafer considered Mother “gravely disabled” and diagnosed her with bipolar disorder and severe methamphetamine use. *Id.* at 121. She also noted in her intake report that Mother’s therapist was concerned Mother might shoot someone due to her delusions and paranoia as Mother refused to surrender her firearms.

[15] NP Hafer recommended that Mother complete inpatient treatment due to her lack of insight into her legal and mental health issues. Mother agreed to inpatient treatment at Sycamore Springs and was released approximately one week later. Mother then completed a four-week Intensive Outpatient Program with Sycamore Springs. Upon her completion, Sycamore Springs

recommended that Mother continue with therapy and attend sober support meetings.

[16] At the time of the fact-finding hearing, Mother was not employed but was working with a home-based case manager to apply for disability. Mother had started individual therapy and was reported to be engaged and cooperating with her therapist. She was also attending sober support meetings. The results of completed drug screens were negative, but Mother had missed two drug screens. Mother had appropriate housing for the Children, having remedied a mold problem at the home where Mother and the Children were residing at the start of this CHINS action. Mother and her DCS caseworker had also discussed the possibility of Mother moving back into Maternal Grandmother's home.

[17] Regarding the Children, DCS was providing home-based case management services to L.S. due to her struggling in school. DCS had not referred or recommended any services for A.M. or W.D. Mother was regularly attending supervised visits with the Children and talked to them on the phone. Mother's caseworker had no safety concerns regarding Mother's interaction with the Children. An assessment worker testified that she had observed interactions between Mother and the Children and that she could tell the Children love their mother and are bonded with her, and they are concerned for her well-being. DCS informed the court that Mother is on track for reunification.

[18] In addition to the forgoing, the record indicates that Mother has a pending charge in Tipton County for invasion of privacy (filed August 13, 2021) for allegedly violating a protective order, and a pending charge in White County for resisting law enforcement as a Level 6 felony (filed September 26, 2021).

[19] The CHINS fact-finding hearing was held on December 10 and 17, 2021. On January 7, 2022, the court issued its order adjudicating A.M. and L.S. to be CHINS. The court denied the CHINS petition as to W.D., finding that Father 3 was willing and able to take custody of W.D. and provide for his needs. The court made findings consistent with the facts set forth herein, none of which Mother challenges on appeal. In finding A.M. and L.S. were CHINS, the court concluded:

Mother needs ongoing services for substance abuse and mental health and [A.M. and L.S.] need a safe and stable home while Mother participates in services. Mother has been provided services through three (3) CHINS cases and a criminal case. Despite these services, Mother continues to struggle with both substance abuse and mental health. Mother denies that her mental health struggles were the result of substance use and denies any fear of relapse despite her history of substance abuse and DCS involvement. [A.M. and L.S.] have suffered years of instability due to Mother's pattern of substance use, sobriety, and relapse.

Appellant's Appendix Vol. II at 44. Following a dispositional hearing, the court issued its disposition order on January 12, 2022, requiring Mother to complete a diagnostic evaluation, including but not limited to a clinical interview and

assessment; complete a substance use disorder assessment; participate in home-based case management; participate in individual counseling; submit to drug screens; and participate in visitation. Mother now appeals. Additional facts will be provided as necessary.

Discussion & Decision

[20] A CHINS proceeding is a civil action that requires DCS to prove by a preponderance of the evidence that a child is a CHINS as defined by the juvenile code. *In re K.D.*, 962 N.E.2d 1249, 1253 (Ind. 2012). A CHINS adjudication under Ind. Code § 31-34-1-1 requires three basic elements: that the parent's actions or inactions have seriously endangered the child, that the child's needs are unmet, and perhaps most critically, that those needs are unlikely to be met without State coercion. In full, I.C. § 31-34-1-1 provides:

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 . . . to supply the child with necessary food, clothing, shelter, medical care, education, or supervision:

(A) when the parent . . . is financially able to do so; or

(B) due to the failure, refusal, or inability of the parent . . . 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.

- [21] On review, we neither reweigh the evidence nor judge the credibility of the witnesses and will consider only the evidence and reasonable inferences that support the trial court's decision. *K.D.*, 962 N.E.2d at 1253. We will reverse only upon a showing that the decision of the trial court was clearly erroneous. *Id.* Further, in family law matters, we generally grant latitude and deference to trial courts in recognition of the trial court's unique ability to see the witnesses, observe their demeanor, and scrutinize their testimony. *In re A.M.*, 121 N.E.3d 556, 561-62 (Ind. Ct. App. 2019), *trans. denied*.
- [22] There is no statutory provision requiring specific findings of fact in a CHINS adjudication order. *In re S.D.*, 2 N.E.3d 1283, 1287 (Ind. 2014). When a trial court supplements a CHINS adjudication with sua sponte findings of fact and conclusions of law, the reviewing court applies a two-tiered standard of review. *Id.* First, we consider whether the evidence supports the findings, and second, whether the findings support the judgment. *Id.* Where the trial court's findings of fact are not disputed, our task is simply to determine whether the unchallenged findings are sufficient to support the judgment. *A.M.*, 121 N.E.3d at 562.
- [23] It is well established that the purpose of a CHINS adjudication is to protect the child, not punish the parents. *K.D.*, 962 N.E.2d at 1255. The focus of a

CHINS proceeding is on “the best interests of the child, rather than guilt or innocence as in a criminal proceeding.” *Id.* (quoting *In re N.E.*, 919 N.E.2d 102, 106 (Ind. 2010)). Further, when determining CHINS status, particularly the coercive intervention element at issue in this case, courts should consider the family’s condition not just when the case was filed, but also when it is heard to avoid punishing parents for past mistakes when they have already corrected them. *In re D.J.*, 68 N.E.3d 574, 580-81 (Ind. 2017). This element “guards against unwarranted State interference in family life, reserving that intrusion for families ‘where parents lack the ability to provide for their children,’ not merely where they ‘encounter difficulty in meeting a child’s needs.’” *S.D.*, 2 N.E.3d at 1287 (quoting *Lake Cnty. Div. of Family & Children Servs. v. Charlton*, 631 N.E.2d 526, 528 (Ind. Ct. App. 1994)).

[24] Mother argues that the evidence is insufficient to support the court’s CHINS adjudication as to A.M. and L.S. Mother does not dispute that when DCS got involved in September 2021, she was using drugs, acting paranoid, and posting suicidal messages on social media. Mother emphasizes, however, that by the time of the fact-finding hearing, she had completed a comprehensive psychiatric evaluation, as well as inpatient and outpatient programs at Sycamore Springs, she was engaged and cooperating with her therapist, her drug screens had been negative, she was working with a home-based case manager on a weekly basis, and she was visiting with the Children two to three times a week. Mother maintains that the evidence at the time of the fact-finding hearing does not

support the court's finding that A.M. and L.S. would not get needed care, treatment, or rehabilitation without the court's intervention.

[25] The trial court set out Mother's long history of substance abuse and mental health issues that have resulted in three prior CHINS cases involving one or more of the Children. Mother received treatment and each CHINS action was eventually closed. In the instant case, Mother relapsed yet again, and her drug abuse caused a drug-induced psychosis with erratic and reckless behavior. Mother was delusional, paranoid, and expressing suicidal thoughts. Behaviors such as this clearly endanger the Children. Mother's behaviors only resolved after Mother received treatment.

[26] Here, the trial court not only considered Mother's history, but also what she had accomplished in the roughly three months since the CHINS action was filed. Indeed, Mother is to be commended for her efforts in achieving sobriety. Still, we conclude that while the evidence at the time of the fact-finding hearing showed that Mother had improved, the court's conclusion that Mother needed ongoing services for substance abuse and mental health and that A.M. and L.S. needed a safe and stable home while Mother participated in those services is not clearly erroneous. Mother has abused drugs for years and despite previous treatments, has relapsed time and again, each time to the detriment of the Children. Mother's most recent relapse is particularly concerning, as Mother was delusional and paranoid and herself was concerned for the safety of the Children. She clearly does not understand the seriousness of her substance-

abuse problem or mental health issues as she denies that her mental health was affected by her substance abuse, and she has no fear of relapsing.

[27] At the time of the fact-finding hearing, Mother was still at the beginning of her recovery. Indeed, only three months had passed since Mother's relapse with methamphetamine that put her into a drug-induced psychosis. Although Mother was engaged and participating in services and DCS believed Mother was on her way to reunification with the Children, this family still needs the State's intervention to ensure that Mother addresses her mental health and drug abuse issues, especially in light of Mother's long history. DCS proved by a preponderance of the evidence that the A.M. and L.S. are CHINS.

[28] Judgment affirmed.

Vaidik, J. and Crone, J., concur.