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IN THE
COURT OF APPEALS OF INDIANA

In the Matter of:
K.T. and B.T. (Minor Children),
Children in Need of Services,

and

P.T. (Mother),
Appellant-Respondent,

v.

Indiana Department of
Child Services,

Appellee-Petitioner.

May 5, 2022

Court of Appeals Case No.
21A-JC-2025

Appeal from the Marion Superior
Court

The Honorable Ryan K. Gardner,
Judge

The Honorable Beth L. Jansen,
Magistrate

Trial Court Cause Nos.
49D10-2104-JC-3281
49D10-2104-JC-3278

Weissmann, Judge.

[1] P.T. (Mother) appeals the juvenile court’s determination that her minor children, K.T. and B.T. (Children), are children in need of services (CHINS). Mother argues that the court abused its discretion in denying her motion to dismiss the case because a factfinding hearing was not held until 123 days after the Indiana Department of Child Services (DCS) filed its CHINS petition. Though Indiana Code § 31-34-11-1 required the hearing to be conducted within 120 days of the petition date, we find the juvenile court had good cause to continue the hearing by 3 days under Indiana Trial Rule 53.5. We therefore affirm.

Facts

[2] DCS filed its CHINS petition on April 23, 2021, alleging Mother failed to provide Children with a home free from substance abuse and domestic violence.¹ The parties twice mediated the case that summer, but they were unable to reach an agreement before a factfinding hearing scheduled for July 29. DCS therefore filed a motion to continue the hearing, advising the juvenile court that “negotiations are ongoing and may yet be fruitful.” App. Vol. II, p. 43. Mother did not object to the continuance, but she explicitly reserved her right under Indiana Code § 31-34-11-1 to a factfinding hearing within 120 days

¹ The CHINS petition also alleged that K.T.’s father, W.T., and B.T.’s father, J.M., failed to ensure their respective child’s safety while in Mother’s care. J.M. is incarcerated and, by counsel, waived his right to a factfinding hearing on the CHINS allegations. According to DCS’s counsel, W.T. was served with the CHINS petition but advised that he does not want to be involved in the case. Tr. Vol. II, pp. 4-5.

of the petition date. Accordingly, DCS requested that the factfinding hearing be reset for a date prior to that August 23 deadline.

[3] The juvenile court granted DCS's motion for a continuance and reset the factfinding hearing for August 19. According to Mother, the July 29 hearing was converted to a pretrial conference, during which "DCS stated that an agreement in the instant matter was likely and that it is likely that a fact-finding hearing would not be required." *Id.* at 46. And "[i]n reliance of DCS's assertions . . . , the Court set a fact-finding hearing for August 19, 2021 and only allotted 20 minutes for the hearing." *Id.* at 47.

[4] The August 19 hearing began with the following exchange between the juvenile court and the parties' attorneys:

THE COURT: . . . I'm noting that this matter was set today at this time, because the parties have indicated to me that [they] anticipated a resolution. Before we went on the record, I had all the lawyers and all the lawyers told me we don't have an agreement, and then the lawyers said none of us waive the 120. Um, so, I, um, I determined we are going to have [to] reset the matter, I gave a date of August 26th at 9:00, which was good with everyone's calendar, and then I said I would make a finding that good cause exists due [to] the Court's congested calendar and the Covid-19 pandemic, um, the parties' initial assurance that this was going to be resolved, and now they tell me they need half a day. So, I'm resetting it over everyone's objection to that August 26th date at 9:00. Um, so, is that a fair and accurate characterization of what we chatted about before we went on the record?

[MOTHER'S COUNSEL]: Your Honor, for the record, I agree with the Court's statement, I would like to add that mother's

intentions to follow through with her agreement have never changed, her position has never changed, and DCS has changed their position, so, for the record, we, um, our statements were accurate to the Court and we believe DCS'[s] actions should not prejudice mother and we object to going past 120.

[DCS'S COUNSEL]: DCS at no time, one hundred percent, offered mother an IA, there was discussions of an IA, but there was never an agreement.

Tr. Vol. I, pp. 5-6. As indicated, the juvenile court rescheduled the factfinding hearing for August 26—123 days after the CHINS petition was filed.

[5] On August 24, Mother filed a motion to dismiss the CHINS petition for failure to hold a factfinding hearing within 120 days of the petition date. The juvenile court denied the motion at the outset of the August 26 hearing, citing the court's prior finding of good cause for a continuance. The court then proceeded with the factfinding. Mother denied the allegations of the CHINS petition but stipulated to the admissibility of a DCS Family Case Manager's sworn statement as to the truth of the petition's allegations.² Based on this evidence, the juvenile court determined that Children were CHINS.

[6] At a dispositional hearing the following month, the juvenile court placed Children with Mother on temporary trial visitation. The court also ordered Mother to participate in home-based therapy, random drug screens, substance

² The juvenile court referred to this as a "deny and submit" agreement. Tr. Vol. I, p. 13; App. Vol. II, p. 51.

abuse treatment, and domestic violence services. Mother now appeals, arguing only that her case should have been dismissed because the trial court failed to hold a factfinding hearing within the required 120 days.

Discussion and Decision

[7] “Indiana law provides that a trial court must dismiss a [CHINS] petition . . . if the court does not conclude a factfinding hearing within 120 days of the filing of the petition by the State.” *Matter of M.S.*, 140 N.E.3d 279, 280 (Ind. 2020) (citing Ind. Code § 31-34-11-1(d)). “Indiana Rules of Trial Procedure, however, allow a party to move for a continuance if that party can show ‘good cause’ for why a continuance is necessary in a particular case.” *Id.* at 280-81 (citing Ind. Trial Rule 53.5). “Because our trial rules trump statutes on matters of procedure, Rule 53.5 allows extension of the 120-day deadline in Indiana Code section 31-34-11-1(b) provided a party can show ‘good cause.’” *Id.* at 284; *see also Matter of K.W.*, 178 N.E.3d 1199, 1209 n.2 (Ind. Ct. App. 2021) (holding juvenile court could sua sponte order continuance under Trial Rule 53.5).

[8] “[T]he purpose of a CHINS adjudication is to protect children, not punish parents.” *M.S.*, 140 N.E.3d at 284. “Accordingly, trial courts are afforded considerable discretion in ruling on motions for continuances, including determining whether the moving parties have shown good cause for requesting a continuance.” *Id.* at 285. There are no “mechanical tests” for determining whether good cause exists; the decision turns on the circumstances of a particular case. *Id.* We will reverse a trial court’s finding of good cause only

when it is clearly against the logic and effect of the facts and circumstances or the reasonable inferences to be drawn therefrom. *K. W.*, 178 N.E.3d at 1206.

[9] Here, the juvenile court made specific findings, on the record, of the good cause for continuing the factfinding hearing past the 120-day deadline. *Supra* ¶ 4. The court then repeated those findings in its written factfinding order, stating:

Court again/now makes a finding that good cause exists to exceed the 120 day limit (by three days) as a result of the following: COVID 19 restrictions, Court congestion as a result thereof, a case management computer system conversion from Quest to Odyssey, a new configuration of Courts with the dissolution of Juvenile Court and the creation of the Family Law Division, this Court[’s] reliance upon parties indicating that a resolution was imminent and thereby this Court only scheduling a minimal amount of time, Mother’s failure to appear at a Court hearing at which she was to have hired private counsel yet failed to do so. The Court finds that all of these factors taken together provide good cause to exceed the statutory time limits by three days.

App. Vol. II, p. 51.

[10] We find the juvenile court had good cause to continue the factfinding hearing past the 120-day deadline based on: (1) the parties’ representations to the court that a settlement was likely; and (2) the court’s reliance on those representations in scheduling a minimal amount of time for the August 19 hearing. Mother complains that “only DCS indicated that a resolution was imminent.” Appellant’s Br. p. 10. But she had the opportunity to contest DCS’s representations and did not.

[11] We need not consider the juvenile court's other proffered reasons for the continuance. *But see generally K. W.*, 178 N.E.3d at 1210 (affirming good cause for continuance based on COVID-19 pandemic, docket congestion, conversion of trial court's computer system, and trial judge's surgery). The judgment of the juvenile court is affirmed.

[12] Affirmed.

Robb, J., and Pyle, J., concur.