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IN THE  
COURT OF APPEALS OF INDIANA

In the Matter of To.R. (Child in  
Need of Services), Th.R.  
(Father), and L.R. (Mother),

*Appellants-Respondents,*

v.

Indiana Department of Child  
Services,

*Appellee-Petitioner*

and

Child Advocates, Inc.,

*Appellee-Guardian Ad Litem*

September 27, 2021

Court of Appeals Case No.  
21A-JC-409

Appeal from the Marion Superior  
Court

The Honorable Mark Jones, Judge

The Honorable Beth Jansen,  
Magistrate

Trial Court Cause No.  
49D10-2003-JC-740

**May, Judge.**

[1] Th.R. (“Father”) and L.R. (“Mother”) (collectively, “Parents”) appeal the trial court’s adjudication of their child, To.R. (“Child”), as a Child in Need of Services (“CHINS”).<sup>1</sup> Parents argue the trial court’s order adjudicating Child a CHINS is clearly erroneous, and Father challenges two findings. Father separately presents other issues, which we consolidate and restate as: whether the trial court erred when it did not grant Father’s motion to transfer the matter to St. Joseph County until after the trial court had entered its dispositional decree. We affirm.

## Facts and Procedural History

[2] Child was born to Parents on December 9, 2016, at twenty-seven weeks gestation.<sup>2</sup> Child has Down’s Syndrome and “is critically ill with respiratory failure due to chronic lung disease, . . . pulmonary hypertension, and upper airway obstruction due to severe distal tracheomalacia.”<sup>3</sup> (Mother’s App. Vol. II at 36.) Child also “suffers from acute kidney failure and . . . cardiac issues due to defects when he was born.” (Tr. Vol. II at 84.) Child spent his first month of life at Methodist Hospital in Indianapolis, and he was subsequently transferred to Riley Hospital for Children (“Riley Hospital”). Child requires a ventilator to

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<sup>1</sup> Mother and Father filed separate appeals, and we consolidated those appeals on May 4, 2021.

<sup>2</sup> When Child was born, his meconium tested positive for marijuana and methadone, and the Department of Child Services investigated the matter. Mother was unable to produce a prescription for the methadone. It is unclear from the record what, if any, action was taken based on this investigation.

<sup>3</sup> A severe distal tracheomalacia requires Child to have a constant tracheotomy because without it “his airway collapses.” (Tr. Vol. II at 84.)

breathe, a tracheotomy to keep his airway from collapsing, and a feeding tube for nutrition.

[3] On February 24, 2020, the Department of Child Services (“DCS”) received a report of medical neglect involving Mother, specifically alleging that Mother “verbally disputes and disagrees with medical professional’s [sic] daily and did not follow rules and regulations of visiting [Child,]” “removed ventilator tubing from [Child,]” and “touched and moved monitor screens in [Child’s] room making it difficult for nurses on the floor to care for [Child].” (Mother’s App. Vol. II at 36-7.) A Family Case Manager (“FCM”) met with Mother, who admitted to touching Child’s medical equipment and told the FCM that she had “more knowledge basically as far as knowing what was best for [Child]” than the medical professionals in charge of Child’s care. (Tr. Vol. II at 14.) Mother and Father both acknowledged Mother’s mental health issues, and Mother indicated she was pursuing treatment for those issues. Mother and Father agreed to a safety plan to “provide a safe and secure environment while visiting [Child]” and to comply with “the orders of the doctors.” (Mother’s App. Vol. III at 131.)

[4] On March 1, 2020, Parents, who had been staying at the Ronald McDonald House at Riley Hospital, “went out drinking which led to a verbal altercation and [Father] ended up falling.” (*Id.* at 183.) Mother attempted to help Father up after he fell and he pushed her away. “[Father] was found passed out on the lawn of the Ronald McDonald House, and the parents were subsequently asked to leave.” (*Id.*) On March 3, 2020, DCS investigated a report that Mother was

violating the safety plan by continuing to argue with medical staff regarding Child's treatment and "inappropriately touching [Child's] medical equipment." (*Id.* at 132.)

[5] On March 4, 2020, DCS filed a petition alleging Child was a CHINS because Mother "continues to fail to comply with medical professionals" and "has still been tampering with [Child's] medical equipment resulting in Riley Hospital Staff refusing to leave [Child] alone with [Mother]." (Mother's App. Vol. II at 37.) The petition also alleged that Parents were homeless and noted that "[Parents] were kicked out of the Ronald McDonald House after becoming intoxicated and engaging in an altercation[.]" (*Id.*) On March 5, 2020, the trial court held an initial hearing and Parents requested counsel be appointed for each of them. On that date, the trial court also authorized Child's removal from Parents' care and ordered placement at Riley Hospital. On April 13, 2020, DCS amended its CHINS petition because it had incorrectly spelled one of Child's middle names.

[6] In mid-April 2020, Riley Hospital banned Mother from their campus based on a number of incidents during which Mother was abusive to staff. On April 21, 2020, DCS filed a motion to authorize general anesthesia for Child "for the purpose of having atrial and ventricular defect repair surgery, as well as a

tracheostomy.” (*Id.* at 95.) The trial court granted the motion on April 23, 2020.<sup>4</sup>

[7] During a May 6, 2020, hearing, Mother requested Child be “moved to a different hospital as Riley does not allow Mother to advocate for [Child].” (*Id.* at 108.) The trial court denied Mother’s request, but the court ordered DCS and Parents to attend a Child-Family Team Meeting (“CFTM”) “to address possible transfer to another hospital within 14 days.” (*Id.*) On May 29, 2020, Mother filed a motion for hearing on Child’s placement, as the CFTM was unsuccessful in resolving the issue. Mother argued that Child “is receiving inadequate care that endangers his welfare[,]” that when Mother “attempts to express her concerns regarding [Child], she is rebuffed and ignored by staff[,]” and that “[d]ue to her intensive advocacy for [Child], [Mother] is trespassed [sic] from Riley Children’s Hospital for the period of one year” and thus is “unable to see [Child], to maintain the bond, or to advocate for appropriate care.” (*Id.* at 110.) On June 3, 2020, the trial court held a hearing on Child’s placement. Mother requested that Child be transferred to either Peyton Manning Children’s Hospital (“PMCH”) in Indianapolis or “a hospital in South Bend, Indiana” where the Parents lived prior to Child’s birth. (*Id.* at 114.) The trial court ordered

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<sup>4</sup> It is unclear from the record if or when Child subsequently received the cardiac-related surgery, however the trial court rescinded its authorization of the tracheotomy surgery on June 3, 2020, to allow Parents to get a second opinion on the necessity of that surgery.

[Child] be placed at a different hospital, as long as that new hospital can meet the medical needs of [Child] and all policies and procedures are followed for transfer. Court authorizes a second doctor to give an opinion regarding the necessity of a tracheotomy as well as the authorization to determine if the [Child's] needs could be met at a different hospital.

(*Id.*) Child was transferred to PMCH on June 30, 2020.

[8] On July 1, 2020, Mother filed a motion for unsupervised parenting time with Child. She argued that COVID-19 precautions at PMCH dictated that only one person can be at Child's bedside and the "requirement of a supervisor to accompany Mother effectively negates her ability to participate in parenting time due to COVID-19 precautions." (*Id.* at 122.) On July 2, 2020, the trial court issued an order taking Mother's request under advisement and requiring Parents and DCS to participate in a CFTM to find a solution that would allow Mother to visit with Child while he was at PMCH. Mother worked with PMCH social worker Fiazah Mawusi to facilitate supervised visits with Child three times a week. Mother told Mawusi that: "DCS was illegally involved with her[,] " "the reason why [Child's] face was flat [was] because they over fed him at Riley[,] " and the "Riley workers were causing harm to the baby so they couldn't complain about the poor service." (Tr. Vol. II at 176-7.) When asked to elaborate on Mother's allegations regarding Child's treatment at Riley Hospital, Mawusi testified that Mother told her that the staff at Riley Hospital "were cutting the vocal cords [of babies] so they couldn't speak." (*Id.* at 177.) Mother also requested that nurses at PMCH read Child a specific book when he

was constipated and brush his hair with a specific brush to help it grow.

Mother was eventually banned from PMCH for interfering with medical staff.

[9] On July 2, 2020, DCS filed a petition for the court to authorize Child to have anesthesia to “undergo G-tube insertion, tracheostomy, and circumcision[.]” (*Id.* at 128.) On July 5, 2020, the trial court granted DCS’s motion so that Child could undergo those surgeries, which were scheduled for July 9, 2020. On July 9, 2020, Father filed a motion to reschedule the G-tube insertion because “it would be physically overwhelming” for Child to undergo three surgeries in one day. (*Id.* at 133.) On July 9, 2020, Mother also filed an emergency motion to stop surgery in which she argued “multiple procedures will place to [sic] much strain on [Child] and endanger his health.” (*Id.* at 135.) The trial court denied Mother’s and Father’s motions, and the surgeries were performed as scheduled.

[10] On July 22, 2020, Mother filed a motion to change Child’s placement to Beacon Children’s Hospital (“Beacon Hospital”) in South Bend, Indiana, because the family was not based in and did not intend to live in Indianapolis on a long term basis, because Beacon Hospital could meet Child’s needs, and because “[c]ontinued placement in Indianapolis forces [Parents] to uproot their lives and imposes further hardship upon the family.” (*Id.* at 146.) The trial court denied Mother’s motion the same day. On July 28, 2020, DCS filed a motion for change of placement, asking the trial court to authorize Child’s placement at Camelot Care (“Camelot”), a long-term care facility in Logansport, Indiana. On July 30, 2020, the trial court granted DCS’s motion

for change in Child’s placement and ordered “[Parents] to disclose their addresses and further order[ed] DCS to conduct an investigation as to that living environment.” (*Id.* at 156.) Child was transferred to Camelot on August 6, 2020.

[11] The trial court set a fact-finding hearing regarding the CHINS petition for August 28, 2020. On August 17, 2020, Father filed a motion to continue the fact-finding hearing because he “obtained housing and he is scheduled to move in between 08/26/2020 and 9/1/2020 . . . [and] anticipates his new house to be ready for [Child] to be placed in September or October.” (*Id.* at 175.) Father also indicated he would use “Home Nurse Service” to assist in Child’s care and a continuance would allow him to “remedy the issues which led to removal [sic] [Child] from his care.” (*Id.*) The trial court granted Father’s motion for continuance and set the fact-finding hearing for October 9, 2020. On September 1, 2020, Mother was charged with Class A misdemeanor resisting law enforcement,<sup>5</sup> Class B misdemeanor public intoxication,<sup>6</sup> and Class B misdemeanor disorderly conduct<sup>7</sup> stemming from an unrelated incident in Fulton County.

[12] On October 6, 2020, Father filed his second motion to continue, in which he objected to the hearing being held virtually and indicated he did not have access

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<sup>5</sup> Ind. Code § 35-44.1-3-1.

<sup>6</sup> Ind. Code § 7.1-5-1-3.

<sup>7</sup> Ind. Code § 35-45-1-3(a).



to participate in a virtual hearing. On October 8, 2020, Mother filed a motion to continue because she was “vomiting blood, and was seeking treatment at the local emergency room.” (*Id.* at 201.) The trial court granted Mother’s motion for continuance and set the fact-finding hearing for December 4, 2020. On October 27, 2020, Child had to be placed back at PMHC because he contracted a blood disease while at Camelot. Child returned to Camelot on November 1, 2020.

[13] On December 3, 2020, Mother filed a motion to continue because she was “experiencing ongoing health issues,” “having issues with her telephone” making her unable to appear at the hearing telephonically, and was not able to travel to Indianapolis to use the Marion County Public Defender Office’s technology to attend the hearing virtually. (Mother’s App. Vol. III at 26.) DCS objected to the motion for continuance, but the trial court granted Mother’s motion, noting in its order that “NO additional continuances will be granted.” (*Id.* at 31) (emphasis in original). The trial court scheduled the hearing for December 18, 2020, and ordered the parties to appear virtually.<sup>8</sup>

[14] On December 15, 2020, DCS filed a petition asking the trial court to authorize anesthesia for Child in order to perform a “Laryngoscopy and Bronchoscopy” at PMCH. (*Id.* at 40.) DCS indicated in its petition that it had been unable to

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<sup>8</sup> The trial court also ordered DCS to provide Parents transportation to Indianapolis so that they could attend the hearing virtually. Parents were ordered to notify DCS forty-eight hours prior to the hearing to indicate the pick-up location.

contact or locate Mother or Father to determine their position on the treatment. On December 16, 2020, Father filed a motion to continue, indicating that he had been hospitalized from December 6 to December 13, 2020, for a “cystoscopy surgical procedure” and his “current medical and physical condition prohibits him from attending his virtual trial.” (*Id.* at 62.) Father also argued that he had a due process right to an in-person hearing. DCS objected, noting the number of continuances Parents had already requested and the time the case had been pending. The trial court denied Father’s motion for continuance.

[15] On December 18, 2020, the trial court held a fact-finding hearing. Despite the trial court’s order requiring Parents to contact DCS for transportation, Parents appeared telephonically. After hearing multiple hours of testimony, the trial court bifurcated the hearing due to court congestion and scheduled a second fact-finding hearing for January 8, 2021. On January 8, 2021, the trial court held the second fact-finding hearing. During the hearing, it was discovered Mother had an active warrant for her arrest in Lake County for driving while suspended and for Class B misdemeanor disorderly conduct, in addition to the pending charges filed against her in September 2020. After receiving evidence, the trial court asked the parties to submit proposed findings of fact and conclusions of law. On February 17, 2021, the trial court entered its order adjudicating Child a CHINS.

[16] On March 1, 2021, Father filed a motion to transfer the CHINS case to St. Joseph County, as Father was living in South Bend and Child was placed in

Logansport. In his motion, Father indicated “DCS does not object to transfer but does object to transfer before the disposition hearing.” (*Id.* at 218.) On March 3, 2021, the trial court held its dispositional hearing and issued its dispositional decree, which ordered Parents to participate in certain services. On March 4, 2021, the trial court granted Father’s motion to transfer the CHINS case to St. Joseph County.

## Discussion and Decision

### 1. CHINS Adjudication

[17] A CHINS proceeding is civil in nature, so 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). The CHINS petition was filed pursuant to Indiana Code section 31-34-1-1, which 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; 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.

Under Indiana Code section 31-34-1-2, the State must prove that “the child’s physical or mental health is seriously endangered due to injury by the act or omission of the child’s parent, guardian, or custodian.”

[18] A CHINS adjudication focuses on the needs and condition of the child and not on 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.* (internal citations omitted).

[19] When a juvenile 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 first consider 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 juvenile 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).

[20] To support its conclusion that Child was a CHINS, the trial court found, in relevant part:

5. [Child] has a number of congenital medical issues that are serious. [Child] has been diagnosed with Trisomy 21 and has heart issues.

6. Mother acknowledged that she tampered with the tubes in place for [Child]. Mother denied being difficult with the medical professionals and stated that she knew best for [Child]. Mother states that she had better medical knowledge than the direct care staff. Mother has mental health issues and that precludes her [from] being able to care for [Child]. Mother agreed initially to

be compliant with the medical professionals but she repeatedly was unable to do so. A safety plan was put in place but Mother did NOT comply.

7. Father agreed that the Mother suffers from mental health issues. Father and Mother did not have stable housing at that time. . . . There were multiple concerns surrounding parents and their inability to refrain from hindering the medical care of [Child].

8. As a result of [Child's] serious medical concerns, lack of stable housing, concerns for domestic violence between parents and Mother's mental health issues, Mother's hindering of [Child's] medical care, [and] a failed safety plan, a CHINS Petition was filed. [Child] was in the hospital and remained in the hospital during the investigation.

9. Father testifies that [Child] has many medical needs. [Child] is currently at a medical facility. Father agrees [Child] is not medically stable to be released. Father is an amputee and has recently lost an arm and a leg. Father has medical issues of his own and has been hospitalized multiples times and he is currently unemployed.

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11. [DCS Family Case Manager] Ms. Walker [who has been the Family Case Manager since June 2020] has never met the Mother in person. Ms. Walker offered services to Mother and Mother declined to participate. Mother has been difficult to communicate with and has been hostile to Ms. Walker. Mother has never offered information about where she lives and Ms. Walker does not have a current address for the Mother. The relationship between Mother and Father is strained and sometimes they are together and other times they are estranged.

12. Ms. Walker has never met the Father in person nor has she seen him. In July Father had a stroke and in early December he had surgery. Father acknowledged that the relationship with his wife was strained and he wanted to get a divorce.

13. Neither Mother nor Father have ever provided DCS an address where they reside. This lack of communication that the Court considers to be a form of ‘stonewalling’ has made it difficult to proceed with achieving reunification.

14. Both parents have been extremely uncooperative with DCS and that has hindered the ability of DCS to assist parents. Parents don’t return phone calls and refused assistance in attending this trial.

15. Parents want [Child] placed at a different care facility not fully understanding the medical needs and care of this [Child]. DCS is exploring the option of placing [Child] in a foster care home with a specially trained care provider. Mother often disputes what the medical professionals recommend. Mother has not demonstrated an ability to focus on the needs of [Child] above her own needs. There are many current concerns for [Child] if [Child] were to be placed in the care of a parent. Mother’s living environment is unknown, Father’s living environment is unknown and due to [Child’s] multiple medical issues a stable, appropriate home is critical. Neither parent have been engaged in services offered to assist with their instability, they have not participated in training to be prepared to care for this medically needy [Child].

\* \* \* \* \*

17. Parents have failed to attend scheduled meetings to address this case.

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21. Ms. Samantha Biddle is the Director of Nursing at Camelot Care Facility. Camelot is a skilled nursing facility. She is familiar with [Child] and holds multiple licenses and is an RN. [Child] is on a ventilator at Camelot. [Child] currently has a tracheotomy and is on a ventilator. [Child] has a G-tube through which he receives food. He suffers from acute kidney failure and he has congenital heart problems. He has tracheomalacia which means his airway does not stay open so he needs the tracheotomy and ventilator to breath. [Child] needs to be in a living situation where there is a backup generator and multiple outlets. [Child] needs two trained care givers who alternate care, home respiratory services, home nutritional services as well as a home healthcare agency that would provide nursing services.

22. The care givers of [Child] need to be trained on a number of medical procedures and neither parent has successfully completed this necessary training partially due to the COVID restrictions. Parents have not communicated with Ms. Biddle in a number of months.

\* \* \* \* \*

26. Mr. Sizemore is the administrator of Camelot Care. He holds all the necessary training and education to hold the professional license that he holds. Mr. Sizemore is familiar with parents and has seen Mother become irate when [Child] was not brought out to see [Father] who was in the parking lot. Mother threatened to have [Child] removed and she was banned from the facility. Parents did not comply with protocol that would enable them to see [Child] even though they were informed of same.

27. Parents never provided an address to Camelot.



28. Ms. Emily Morris is employed at Riley Hospital in Indianapolis. She is social worker assigned to the NICU. She came into contact with parents and often saw problematic behaviors from parents which [Child] was in that facility. Mother never seemed to be on the same page as the medical treatment team. Mother would not appreciate what the medical staff was addressing. Mother would touch the medical equipment repeatedly even after being requested not to. Weekly Ms. Morris would have to address the problematic behaviors of parents. [Child] was at Riley from January of 2020 until approximately March of 2020. Mother was often upset with the treatment of [Child] and she did not appear to be truthful. She would claim that she had resources that would allow her to be able to care for [Child] but it became apparent that she did not.

29. Ms. Morris saw that Mother was explained medical issues multiple times but she did not understand the repeated explanations. Both Mother and Father were repeatedly addressed regarding their behaviors which [Child] was in Riley Hospital. Parents acknowledged that there was a domestic violence incident between the two of them while they were at Ronald McDonald House. Mother was irate and unmanageable at [Child's] bedside therefore, she was banned from Riley Hospital.

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31. [Parents] have required additional assistance and hospital security has had to be called on multiple occasions. These parents have been the most challenging parents that Ms. Morris has dealt with in the 6 years she has been at Riley.

32. Mother often missed child and family team meetings and that is where basic information could have been communicated.

33. At the close of testimony on the first day, Mother stated that she would NOT be attending virtually and she would be available by phone only.

34. Ms. Vanessa McCaskey is a licensed marriage and family therapist. She works at Hope Counseling and Associates as a home based therapist. Ms. McCaskey is familiar with Mother because she was assigned to be her therapist in March of 2020. Ms. McCaskey attempted to work with Mother on multiple occasions but Mother was difficult to work with and no meaningful progress was made. Mother only contacted Ms. McCaskey when she wanted to complain about her son's care. Mother claimed to Ms. McCaskey [that] she was in therapy elsewhere, was prescribed medications but Mother never did show proof and never signed a release of information. Mother was usually emotional when she spoke to Ms. McCaskey. Ms. McCaskey saw a need for Mother to see a psychiatrist due to her extreme mood swings.

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36. After multiple conversations with Mother, Ms. McCaskey believed that Mother needed emotion regulation and psychiatric care because of her extreme emotions and mood swings. Having Mother caring for a special needs child would be concerning if her emotions were not regulated. Ms. McCaskey had to discharge Mother unsuccessfully because Mother did not comply.

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41. There came a time when Mother and Father were not allowed to come into [PMCH] based upon their behavior.

42. [PMCH Social Worker] Ms. Mawusi was informed by [Parents] that their housing situation was in flux. [Child's] special needs necessitated a suitable home which [Parents] did not have and to this day the Court questions if such a home exists.

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45. Father has visited [Child] approximately three times at Camelot and no other restrictions were placed upon him. Mother, however had restrictions placed upon her and her visits because of concerns regarding her behavior. Mother never requested a virtual visit and has never had a virtual visit with [Child].

46. Ms. Hurd, as the social service director of Camelot, the care facility where [Child] is currently placed must ensure that the new placement is suitable. [Child] needs respiratory equipment, a ventilator machine, a pulse Oximeter, a nebulizer machine, [and] a suction machine. Any home that [Child] would transition into would need to be inspected. Additionally, [Child] would need nursing services and care providers would need certain training.

47. Parents have not demonstrated the ability or the willingness to meet the special needs of [Child].

48. Parents need necessary training which cannot occur at Camelot due to Covid restrictions but it may be able to occur at a sister facility.

49. The Court takes judicial notice of a Lake County, Indiana matter under cause number 45HO1 1808 CM 396. In particular the Court notes that there is an open warrant for Mother.

\* \* \* \* \*

55. Although Mother on certain occasions exhibited proper parenting, the Court sees a need for services to assist Mother and her parenting deficiencies are substantial.

56. [Father] is the father of [Child]. He acknowledges that [Child] has many medical issues and has been hospitalized in various hospitals his entire life. Father claims to have received some training that was needed at Peyton Manning but he has not completed the training. Father has not seen [Child] since the end of November 2020.

57. The Court is not swayed by Father's claims that he can meet the needs of [Child]. Father acknowledges that he withheld his address from DCS and even on today's date he evades questioning about where he lives. He claims that he will take possession tomorrow but now he lives in a hotel.

58. Father's testimony is confusing and contradictory and his claims are dubious. Father claims that he was in the military and has obtained a VA loan but the Court questions his credibility.

59. Communication between DCS and [Parents] is almost non-existent and very confrontational when it does occur which leads this Court to the conclusion that coercive intervention of the Court is necessary.

(Mother's App. Vol. III at 151-62) (errors in original) (emphasis in original).

### ***A. Father's Challenged Findings***

[21] Father challenges Findings 15 and 22 of the trial court's order, which state, in relevant part:

15. . . . Neither parent have [sic] been engaged in services offered to assist with their instability, they have not participated in training to be prepared to care for this medically needy [Child].

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22. The care givers of [Child] need to be trained on a number of medical procedures and neither parent has successfully completed this necessary training partially due to the COVID restrictions. Parents have not communicated with Ms. Biddle in a number of months.

(*Id.* at 154-5.) Father contends on appeal that these findings are erroneous because he had not been offered training even though he requested it and that Child had been placed at facility that could not offer Father the requisite training. Thus, Father argues Child’s CHINS adjudication cannot be based on his lack of training.

[22] It is undisputed that Parents will need extensive medical training should Child be placed with them. Parents had not completed such training before the trial court’s fact-finding hearing, in part due to the COVID-19 pandemic. However, Hurd, the social services director at Camelot, testified that Parents could attend training to learn how to care for Child at Camelot’s sister facility in Shelbyville, but that training would not be ordered until Child was ready to leave the Camelot facility and be placed with Parents. As the trial court’s other unchallenged findings indicate, Parents did not have stable housing, both had significant mental and physical medical issues, and they had been thus far uncooperative with DCS service providers. While it is true that Father had not

been properly trained to care for Child upon his release, any error in assigning fault to Father for his failure to do so was harmless, as other circumstances prevented Child from leaving Camelot. *See M.K. Plastic Corp. v. Rossi*, 838 N.E.2d 1068, 1074 (Ind. Ct. App. 2005) (“[E]ven an erroneous finding is not fatal to a trial court’s judgment if the remaining valid findings and conclusions support the judgment, rendering the erroneous finding superfluous and harmless as a matter of law.”).

### ***B. Father’s Disability***

[23] Father is an amputee with one arm and one leg. Indiana Code section 31-10-2-3 states, “The right of a person with a disability to parent the person’s child may not be denied or restricted solely because the person has a disability.” Father contends “the Juvenile Court and DCS erred by considering Father’s disability as a reason not to allow placement of [Child] with him[.]” (Father’s Br. at 42.)

[24] As noted *supra*, the trial court made multiple findings regarding Father’s inability to care for Child that are entirely unrelated to his disability. Father did not demonstrate he had stable housing and was often evasive when asked for his address and the details of his residence; Father had serious medical issues of his own, suffering a stroke and undergoing another surgery in the nine months the CHINS case was pending; and Father refused to cooperate with the very DCS service providers he now claims should have been helping him. As there were other significant factors that supported the trial court’s decision to adjudicate Child a CHINS, we conclude the trial court did not “solely” base its decision on Father’s disability and thus did not violate Indiana Code section 31-

10-2-3. *Cf. In re L.N.*, 118 N.E.3d 43, 49 (Ind. Ct. App. 2019) (reversing CHINS adjudication when decision based solely on parents' disabilities).

### ***C. Unchallenged Findings***

[25] Parents also argue that coercive intervention of the Court is not required because all of Child's needs are met by his various medical providers, who Parents contend would not release him into Parents' care without proper safety protocols. However, Parents' argument ignores the fact that those medical providers are not responsible for addressing Parents' underlying issues, which have thus far prevented Child from being placed in their care. Those underlying issues include chronic housing issues, domestic violence, alcohol abuse, criminal activity, mental health issues, and physical health issues. Parents both analogize the facts of their case to other cases in which we have reversed CHINS adjudications, but all of those cases are distinguishable.

[26] First, in *In re S.D.*, 2 N.E.3d 1283 (Ind. 2014), the child was adjudicated a CHINS based on child's medical conditions and her mother's alleged inability to meet those needs and have child placed in her home. *Id.* at 1286. Our Indiana Supreme Court reversed the CHINS adjudication based in part on the fact that mother had taken significant steps toward having her child placed with her and at the time of the fact-finding hearing only one requirement, that mother complete a 24-hour home care training, remained. *Id.* at 1290. Our Indiana Supreme Court found coercive intervention of the court was not necessary because DCS did not prove mother "was unwilling or unable" to care for child "without the court's compulsion[.]" *Id.* As stated multiple times in

this opinion, Parents' situation is vastly different and based on a myriad of factors, the least of which involves Parents' inability to maintain an environment in which Child could be placed with one or both of them.

[27] Similarly, in *A.H. v. Ind. Dep't of Child Servs.*, 58 N.E.3d 951 (Ind. Ct. App. 2016), the child was adjudicated a CHINS based on issues related to traumas the child had endured and the mother's alleged inability to address those traumas. *Id.* at 952-3. We reversed the adjudication, noting that it was not mother's failure to seek treatment that promulgated child's continued mental health and behavioral issues, but instead DCS's failure to secure the psychiatric treatment that it recommended would be beneficial for the child, and thus coercive intervention of the court to compel mother to act was not necessary. *Id.* at 955-6. In the case before us, DCS has supplied the requisite services for Child and for Parents but Parents have chosen to evade DCS workers and service providers and Parents are often confrontational when any communication with DCS occurs.

[28] Finally, the child in *In re L.N.*, 118 N.E.3d at 49, was adjudicated a CHINS based primarily on the mother's mental health issues and father's low intellectual functioning. We reversed because DCS had not provided evidence that child was endangered based on those factors and there existed no other conditions under which child could be adjudicated a CHINS. *Id.* at 50. Such is not the case here. Mother's mental health issues have substantially hindered her ability to understand Child's medical issues or assist in his care and other factors exist that support a CHINS adjudication.



[29] Based on Child’s fragile medical status, it is imperative that any caregiver have the ability, resources, and knowledge to address all of his medical concerns. Parents have thus far demonstrated an inability to understand and appreciate Child’s medical condition. At the time of the fact-finding hearing, neither parent had obtained suitable housing and both were facing substantial health issues independent of Child’s serious condition. Additionally, Mother faced several criminal charges and it was unclear what incarceration, if any, she would have to face. Based thereon, we cannot say the trial court erred when it adjudicated Child a CHINS. *See contra Matter of E.K.*, 83 N.E.3d 1256, 1262-3 (Ind. Ct. App. 2017) (coercive intervention of the court not necessary when parents have been cooperative with DCS’s proffered services prior to the child’s adjudication as a CHINS), *trans. denied*.

## 2. Motion to Transfer Case

[30] Pursuant to Indiana Code section 31-32-7-1, “[i]f a child is alleged to be a delinquent child or a child in need of services, proceedings under the juvenile law may be commenced in the county: (1) where the child resides; (2) where the act occurred; or (3) where the condition exists.” A request for change of venue of a CHINS or delinquency proceeding “may not be granted except under section 3 of this chapter.” Ind. Code § 31-32-7-2. Under Indiana Code section 31-32-7-3, “(a) [u]pon: (1) the juvenile court’s own motion; (2) the motion of a child; or (3) the motion of the child’s parent, guardian, or custodian; the juvenile court may assign a case to a juvenile court in the county of a child’s residence at any time before the dispositional hearing.”

[31] Here, Father filed a motion to transfer the CHINS case to St. Joseph County, where Father resided, on March 1, 2021. The trial court held its dispositional hearing on March 3, 2021, and issued its dispositional order on March 4, 2021. It also granted Father's motion to transfer venue on March 4, 2021. Father argues the trial court erred when it did not grant his motion to transfer venue until after the dispositional hearing.

[32] When Father filed his motion to transfer venue, Child resided at Camelot Care Center in Logansport, Indiana, which is in Cass County, not St. Joseph County, where Father requested the case be transferred. Thus, Father's motion to transfer was not properly a motion to transfer governed by Indiana Code section 31-32-7-3 because he did not request the case be transferred to the county in which Child resided. Accordingly, the trial court did not abuse its discretion when it waited three days to transfer the case after it entered the dispositional order.

## Conclusion

[33] The trial court did not err when it adjudicated Child a CHINS. Additionally, the trial court did not abuse its discretion or violate CHINS venue requirements when it did not grant Father's request to transfer prior to its dispositional order. Accordingly, we affirm.

[34] Affirmed.

Kirsch, J., and Vaidik, J., concur.