

## 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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### ATTORNEYS FOR APPELLANT

C. Matthew Zentz  
Indianapolis, Indiana

Thomas Roberts  
Indianapolis, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana  
Indianapolis, Indiana

Abigail R. Recker  
Deputy Attorney General  
Indianapolis, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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In re the Matter of S.A. and  
M.P-M. (Children)

M.H.,

*Appellant-Respondent,*

v.

Indiana Department of Child  
Services,

*Appellee-Petitioner*

October 4, 2022

Court of Appeals Case No.  
22A-JM-771

Appeal from the Marion County  
Superior Court

The Honorable Alicia A. Gooden,  
Judge

Trial Court Cause Nos.  
49D14-2203-JM-2640  
49D14-2203-JM-2641

**May, Judge.**

- [1] M.H. (“Guardian”) appeals the juvenile court’s decision to grant the Department of Child Services’ (“DCS”) motion to compel Guardian to allow DCS to interview M.P-M. and S.A. (collectively, “Children”) and inspect Guardian’s house following DCS’s receipt of a report that Guardian was neglecting Children. Guardian presents multiple issues; however, we conclude this appeal is moot and therefore dismiss.

## Facts and Procedural History

- [2] A.L. (“Mother”) is the mother of M.P-M. and S.A., born August 8, 2017, and August 1, 2018, respectively. At some point, Children were placed in Guardian’s care. On March 28, 2022, Mother called DCS to report Guardian told Mother to come get Children “because [Guardian] is tired of caring for [Children].” (App. Vol. II at 27.) Mother also alleged Guardian said “[Gaurdian] was going to choke the life out of [M.P-M.] because [M.P-M.] only causes drama and is a drama queen.” (*Id.*) Finally, Mother reported to DCS that Guardian is bipolar, does not take her medication, has firearms in her house, and has threatened to “blow [Mother’s] face off[.]” (*Id.*)
- [3] DCS Family Case Manager (“FCM”) Melissa Woodruff contacted Guardian and asked Guardian if she could meet with Guardian and Children. Guardian declined<sup>1</sup> and, on the advice of her attorney, told FCM Woodruff that she

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<sup>1</sup> According to Guardian’s Motion to Correct Error, Guardian was the subject of “28 previous unsubstantiated reports” with DCS and “14 reports that were ‘screened out’ without an investigation.” (App.

“would need a court order to see [Children] . . . [and] she did not want FCM Woodruff to contact her anymore without a court order.” (*Id.* at 28.) On March 31, 2022, DCS filed a motion to compel that asked the juvenile court to “order [Guardian] to produce [Children] for purposes of an interview[,] “to allow DCS to observe the home environment of [Children,]” and to require Guardian to submit to a drug screen. (App. Vol. II at 29.)

[4] On April 5, 2022, Guardian filed a motion for change of judge. On April 7, 2022, the trial court held a hearing. It issued an order the same day that denied Guardian’s motion to change judge and granted DCS’s motion to compel conduct. On April 7, 2022, Guardian filed a notice of appeal. On April 8, 2022, DCS filed a motion for hearing on its motion to compel and asked the trial court to set aside its April 7, 2022, order and allow testimony on the motion. On April 20, 2022, the juvenile court granted DCS’s motion, set aside its April 7 order, and scheduled a hearing on the matter for April 29, 2022.

[5] On April 29, 2022, the juvenile court held a hearing during which it received testimony and argument from both parties. On the same day, the juvenile court issued an order finding “good cause” and granting DCS’s motion to compel. (*Id.* at 34.) In that order, the juvenile court required Guardian to make Children available for an interview with DCS and to allow DCS to inspect her home. On May 1, 2022, Guardian filed an amended notice of appeal. On May

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Vol. II at 41.) Guardian indicated this activity was “evidence of a long history of harassment and unsubstantiated reports” against her. (*Id.*)

6, 2022, DCS spoke with Children and Guardian and observed Guardian's home.<sup>2</sup> On May 9, 2022, DCS issued its report indicating the allegations of neglect against Guardian were unsubstantiated. On May 19, 2022, Guardian filed a motion to correct error, arguing DCS withheld vital evidence during the April 29 hearing, specifically Guardian's DCS report history, which included twenty-eight previous unsubstantiated reports of neglect involving Guardian and fourteen reports that were "screened out" without an investigation. (*Id.* at 41.) On June 30, 2022, the juvenile denied Guardian's motion to correct error.

## Discussion and Decision

[6] Guardian appeals the April 29, 2022, order compelling her to allow DCS to interview Children and allow DCS to inspect Guardian's home. The State argues Guardian's appeal is moot because DCS already determined the allegations of neglect were unsubstantiated. "The long-standing rule in Indiana courts has been that a case is deemed moot when no effective relief can be rendered to the parties before the court." *T.W. v. St. Vincent Hosp. & Health Care*

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<sup>2</sup> Prior to filing its appellate brief, DCS filed a motion to supplement the appellate record with DCS's assessment of the report of neglect. The report notes the dates the FCM spoke with Children and Guardian as well as the finding that the report of neglect was unsubstantiated. Guardian did not oppose DCS's motion to supplement and seems to reference the contents thereof in her motion to correct error. (*See* App. Vol. II at 41) (noting DCS provided Guardian with Guardian's DCS history on May 17, 2022, over a week after the FCM's reporting finding the allegations of neglect unsubstantiated). "Although it is generally true that we may not consider matters outside the record on appeal, we have also noted that the parties should inform the appellate court 'of a post-judgment change in circumstances which might render a pending appeal moot.'" *In re F.S.*, 53 N.E.3d 582, 590-91 (Ind. Ct. App. 2016) (internal citations omitted) (quoting *Cunningham v. Hiles*, 402 N.E.2d 17, 20 (Ind. Ct. App. 1980)). These post-judgment changes might render this appeal moot and thus, in a separate order, we granted DCS's motion to supplement the record. We incorporate the relevant facts provided therein into this opinion.

*Ctr., Inc.*, 121 N.E.3d 1039, 1042 (Ind. 2019) (quoting *Matter of Lawrance*, 579 N.E.2d 32, 37 (Ind. 1991)), *reh'g denied*. “When the controversy at issue has been ended or settled, or somehow disposed of so as to render it unnecessary to decide the question involved, the case will be dismissed.” *Id.* However, “an appeal may be heard which might otherwise be dismissed as moot where leaving the judgment undisturbed might lead to negative collateral consequences.” *In re F.S.*, 53 N.E.3d 582, 591 (Ind. Ct. App. 2016).

- [7] In response, Guardian argues the issues before this court should be analyzed because they are “questions of great public interest” because

[t]his matter involves a matter of constitutional proportions regarding the infringement of [Guardian’s] constitutional rights to raise [Children]. . . . the same or similar thing is very likely to [happen] to other parents or guardians based on the trial court’s assertions that Judicial Officers will often grant a Motion to Compel without even having a hearing. This conduct is an infringement on a parent’s constitutional rights and is likely to evade review if DCS conducts the interview, unsubstantiates the claims, and the matter is deemed moot on appeal because there is no effective relief to be granted. While a reversal will not afford [Guardian] any relief given subsequent events, a decision on the merits will offer direction to the courts in future cases where DCS seeks an order compelling an interview.

(Br. of Appellant at 11.)

- [8] “Indiana recognizes a public interest exception to the mootness doctrine, which may be invoked when the issue involves a question of great public importance which is likely to recur.” *T.W.*, 121 N.E.3d at 1042 (quoting *Matter of Tina T.*,

579 N.E.2d 48, 54 (Ind. 1991)). “Judicial opinions that invoke the public-interest exception ‘are, for all practical purposes, advisory opinions.’” *E.F. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 188 N.E.3d 464, 467 (Ind. 2022) (quoting *Mosley v. State*, 908 N.E.2d 599, 603 (Ind. 2009)). This court has broad discretion to determine if a case presents a question of great public interest. *Id.* at 466. The public interest exception is “especially appropriate in appeals that address novel issues[.]” *Id.* at 467.

[9] Guardian relies heavily on *In re F.S.*, wherein we reversed the trial court’s order compelling the parents to allow child to submit to an interview after DCS received an anonymous complaint of abuse involving the family because DCS “did not demonstrate by any evidence that an interview was necessary for it to carry out its obligation to investigate reports of child abuse or neglect[.]” *In re F.S.*, 53 N.E.3d at 600. However, subsequent to the trial court’s order granting DCS’s motion to appeal, the children in *In re F.S.* were adjudicated as CHINS. *Id.* at 590. A CHINS adjudication could have negative collateral consequences, as it could “relax the State’s burden for terminating parental rights . . . have adverse job consequences . . . such as precluding [m]other from employment with any DCS contractor . . . [and] a CHINS finding may preclude her from becom[ing] a licensed foster parent.” *In re S.D.*, 2 NE.3d 1283, 1290 (Ind. 2014).

[10] Here, the interviews have already been performed and the report of neglect was determined to be unsubstantiated. Thus, we can grant Guardian no relief. Further, the question of whether the juvenile court can issue an order to compel

a parent or guardian to produce a child for an interview with DCS following a report of neglect or, similarly, to allow DCS to inspect a home after such a report, has been decided multiple times by this court. *See, e.g., F.S.*, 53 N.E.3d 582 (reversing trial court's grant of motion to compel because DCS did not demonstrate good cause to interview child); *In re A.H.*, 992 N.E.2d 960 (Ind. Ct. App. 2013) (affirming trial court's order compelling interview with children, rejecting mother's due process argument), *trans. denied*; *In re G.W.*, 977 N.E.2d 381 (Ind. Ct. App. 2012) (affirming trial court's order compelling mother to allow DCS to interview a child who was not subject to an abuse allegation, but lived within the household), *trans. denied*. Guardian has not demonstrated the issues she presents here are likely to recur or involve questions of great public interest. Nor has Guardian argued she would suffer negative collateral consequences if we were to determine her appeal was moot. Finally, we see no negative collateral consequences like those described in *In re S.D.*, *supra*, where trial court action led to a CHINS adjudication. Based thereon, we dismiss Guardian's appeal as moot.

## Conclusion

- [11] Guardian's appeal is moot because this court cannot provide her with sufficient relief when: (1) the interviews and investigation at issue have already occurred; and (2) the report of neglect was unsubstantiated. Additionally, she has not demonstrated the issues she presents are likely to recur, involve a question of great public interest, or could produce negative collateral damage if not

decided. Therefore, we declare the issues she presents moot and dismiss the appeal.

[12] Dismissed.

Crone, J., and Weissmann, J., concur.