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IN THE
COURT OF APPEALS OF INDIANA

In the Matter of A.A.D., A.D.,
and J.D. (Minor Children)

and

T.D. (Father),

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner

August 31, 2021

Court of Appeals Case No.
21A-JC-665

Appeal from the Allen Superior
Court

The Honorable Charles F. Pratt,
Judge

Trial Court Cause Nos.
02D08-2012-JC-476, -477, -478

Crone, Judge.

[1] In December 2020, the Indiana Department of Child Services (DCS) filed a petition alleging that A.A.D., A.D., and J.D. were children in need of services

(CHINS). Specifically, the petition alleged that T.D. (Father) is the custodial parent of the Children and “was found unconscious on [the] kitchen floor with the front door wide open.” Appellant’s App. Vol. 2 at 30. The DCS family case manager believed that Father was “under the influence [of drugs] due to his erratic behaviors, [s]cabs on his arms, back and face, and [Father] sweating profusely while speaking” *Id.* The petition further alleged that Father had a history of illegal substance use and that the Children had reported seeing drugs in the garage. Additionally, the “home was found to be in disarray with clutter such as trash [and] clothing spread throughout[.]” *Id.* at 31.

[2] In March 2021, the trial court held a factfinding hearing. Following the hearing, the trial court concluded that DCS had not proven the allegations of the CHINS petition by a preponderance of the evidence. Accordingly, the trial court denied the CHINS petition and ordered Children returned to Father’s care. However, determining that “greater protection needs to be in place” due to the “concerning” facts presented, the trial court further ordered the parties to “prepare and institute a plan for an informal adjustment to address the unique needs evidenced by the facts of this case.” Appealed Order at 3 (caps omitted).

[3] On appeal, Father contends that the trial court was without statutory authority to order him to participate in an informal adjustment without his consent, and further that once the trial court determined that there was insufficient evidence to support a CHINS adjudication, the court was required to discharge the Children from its jurisdiction. DCS agrees that Indiana statutory law does not support the trial court’s order and that reversal is appropriate. *See* Ind. Code §

31-34-8-2 (“The child and the child’s parent, guardian, custodian, or attorney must consent to a program of informal adjustment.”); Ind. Code § 31-34-11-3 (“If the court finds that a child is not a child in need of services, the court shall discharge the child.”). Accordingly, we reverse the trial court’s order directing Father to participate in an informal adjustment.

[4] Reversed.

Bailey, J., and Pyle, J., concur.