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IN THE  
COURT OF APPEALS OF INDIANA

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In the Matter of A.R. and I.T.  
(Minor Children)

B.G. (Mother),  
*Appellant-Respondent*,

v.

Indiana Department of Child  
Services,

*Appellee-Petitioner*

And

October 6, 2022

Court of Appeals Case No.  
21A-JC-2149

Appeal from the Marion Superior  
Court

The Honorable Ryan Gardner,  
Judge

The Honorable Mark Jones, Judge

Trial Court Cause Nos.  
49D10-2103-JC-1924

49D10-2103-JC-1925

**May, Judge.**

[1] B.G. (“Mother”)<sup>1</sup> appeals the adjudication of her children, A.R. and I.T. (collectively, “Children”), as Children in Need of Services (“CHINS”). Mother presents three issues for our review, which we restate as:

1. Whether the juvenile court erred when it determined it had jurisdiction over the CHINS matter pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act<sup>2</sup> (“UCCJA”);
2. Whether the juvenile court erred when it determined Indiana was a convenient forum for the CHINS matter; and
3. Whether the trial court complied with Indiana Code section 31-34-19-1, which requires a juvenile court to complete a dispositional hearing no more than thirty days after the court adjudicates a child as a CHINS.

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<sup>1</sup> A.R.’s father is G.R. and I.T.’s father is M.T. While they were parties of the CHINS proceedings, they do not participate in this appeal.

<sup>2</sup> Ind. Code §§ 31-21 et al.

We affirm.

## Facts and Procedural History

[2] A.R. and I.T. were born on December 26, 2005, and May 20, 2014, respectively.<sup>3</sup> On March 15, 2021, Mother and Children were traveling through Indiana on their way from their home in West Virginia to Arizona. Mother began to “feel ill” so she went to the Community Hospital emergency room in Indianapolis. (Ex. Vol. I at 134.) Mother reported to emergency room staff that her “dog had licked something in a parking lot this morning and then shortly thereafter became very bloated and died” and Mother “felt that she was having the same symptoms he did prior to his death.” (*Id.* at 15.) During her initial assessment Mother “would not answer questions clearly and stare[d] at the nurse for long periods of time.” (*Id.* at 20.) When medical personnel attempted to draw blood from Mother’s arm, she demanded the needle be removed and later expressed concern that hospital staff used “animal euthanasia” on her. (*Id.*) A.R. reported Mother had “not slept in 4-5 days and that she’s been acting highly paranoid.” (*Id.* at 117.)

[3] Mother called the Department of Child Services (“DCS”) and asked DCS to send someone to retrieve Children. Hospital staff moved Children to an adjacent room because of Mother’s behavior. Hospital staff eventually had to

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<sup>3</sup> Mother testified Children’s fathers both lived in Nevada, but no paternity or custody order as to either child was entered into evidence.

restrain Mother because she was “screaming and kicking” and hit a staff member. (*Id.*) A DCS employee arrived forty-five minutes after Mother called DCS and took Children into emergency custody.

[4] Mother continued to have hallucinations, telling hospital staff there was “a horse behind the wall” and “that when an autopsy is preformed [sic] on her that they will find extra human body parts on her body.” (*Id.* at 21.) Mother’s drug screen was positive for amphetamines. Community Hospital discharged Mother on March 17, 2021, after diagnosing her with “[u]nspecified schizophrenia spectrum and other psychotic disorder[,]” “[u]nspecified anxiety disorder[,]” “[p]osttraumatic stress disorder[,]” and “[a]ttention-deficit/hyperactivity disorder[.]” (*Id.* at 122.)

[5] On March 16, 2021, DCS filed its petitions alleging Children were CHINS based on exposure to domestic violence between Mother and Mother’s boyfriend; unstable housing; and the fact that Mother “was placed on a mental health hold, thereby leaving [Children] without a caregiver.” (App. Vol. II at 70.) On April 4, 2021, Mother filed a motion to dismiss the CHINS action for lack of personal jurisdiction. She argued Mother and Children “are nonresidents of Indiana who have not maintained or established sufficient minimum contacts with the State of Indiana[,]” “the use of Hoosier resources in pursuing a [CHINS] case with this family is wasteful and an inefficient use of judicial and state resources[,]” and “Indiana can ensure the safety of [Children] without improperly exercising jurisdiction over this family.” (*Id.* at 74-5.)

[6] Also on April 4, 2021, Mother filed a motion asking the juvenile court to immediately place Children with Mother at the family residence in West Virginia. She asserted she has “sole legal and physical custody” of Children and she contacted DCS because she “was traveling alone with [Children]” and “needed to obtain an immediate caregiver for them” while she sought medical treatment. (*Id.* at 90.) She stated I.T.’s father, M.T., resided in Nevada and “he has no court ordered parenting time with [I.T.] under any paternity or custody matter.” (*Id.* at 89.) She also stated A.R.’s father, G.R., was “incarcerated in Nevada for homicide with the earliest release date of 2035” and “has not had an ongoing relationship with his daughter [A.R.]” (*Id.*) The trial court denied Mother’s motions during a pre-trial hearing on April 6, 2021. On April 15, 2021, Mother filed a motion to transfer the case to the presiding judge; the juvenile court granted her motion the next day. On April 20, 2021, Mother filed a motion asking the juvenile court to reconsider its denial of her motion to dismiss; the juvenile court denied that motion the same day.

[7] On May 7, 2021, DCS filed a motion for the court to determine if Indiana was a convenient forum pursuant to Indiana Code section 31-21-5-8,<sup>4</sup> which indicated DCS had confirmed Mother’s residence in West Virginia but it “still ha[d] safety concerns regarding [Children] returning back to [Mother’s] care and custody[.]” (*Id.* at 101.) On May 12, 2021, Mother filed an amended motion to

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<sup>4</sup> Indiana Code section 31-21-5-8 controls the process by which a trial court may determine whether Indiana is an inconvenient forum for child custody proceedings.

dismiss, which alleged the juvenile court did not have personal jurisdiction or subject matter jurisdiction under the UCCJA. In addition to her earlier arguments, Mother asserted “the emergency situation” that prompted DCS intervention had “been resolved” and “DCS’s continued involvement is not necessary for the safety of [Children] since West Virginia has the appropriate access and resources to investigate the family and ensure the safety of [Children].” (*Id.* at 120.)

[8] On May 12, 2021, the juvenile court held a fact-finding hearing on DCS’s motion regarding forum and Mother’s amended motion to dismiss. On May 17, 2021, the juvenile court issued its order denying Mother’s motion to dismiss “with regard to the issue of personal jurisdiction[.]” (*Id.* at 123.) In addition to finding Mother had sufficient minimum contacts with Indiana to establish personal jurisdiction, the juvenile court also determined that, “in requesting that the Presiding Judge hear this case, Mother availed herself of relief that submitted her to the personal jurisdiction of this court.” (*Id.*)

[9] On June 25, 2021, the juvenile court held a hearing on DCS’s motion for determination of Indiana as a convenient forum. On June 28, 2021, the juvenile court determined Indiana was a convenient forum for the CHINS proceedings because, among other reasons, Children were physically present and receiving services in Indiana. In that order, the juvenile court also set the CHINS fact finding hearing for July 9, 2021. On July 9, 2021, Mother filed a motion for specific findings and conclusions pursuant to Indiana Trial Rule 52(A).

- [10] On July 9, 2021, the juvenile court held the CHINS fact finding hearing. The juvenile court first entertained argument regarding Mother’s amended motion to dismiss regarding subject matter jurisdiction. After argument from all parties, the trial court denied Mother’s motion. During the hearing, M.T. admitted I.T. was a CHINS. G.R. did not appear, but waived fact finding via counsel. The juvenile court granted Mother’s request for specific findings and conclusions pursuant to Indiana Trial Rule 52(A) and ordered the parties to submit their proposed orders by July 23, 2021. On August 11, 2021, the trial court issued its order adjudicating Children as CHINS.
- [11] On the same day, the juvenile court issued an order declining the continued exercise of jurisdiction and staying the proceedings. The juvenile court found “West Virginia is the more appropriate forum for disposition of the matter” and “is in the best position to order and monitor any services for the family, and to maintain and oversee reasonable efforts to reunify the family.” (*Id.* at 139.) The juvenile court also noted the distance between Marion Superior Court and the court in Berkeley County, West Virginia was over 500 miles. The juvenile court ordered the relevant parties and services to begin transition of the case and Children to West Virginia. On August 20, 2021, DCS provided the juvenile court with all relevant contact information for the judges and court administrator of the West Virginia court.
- [12] On September 9, 2021, DCS filed a motion for an expedited dispositional hearing, asking the juvenile court to set the hearing prior to or on September 15, 2021, because September 15, 2021, was thirty days from the CHINS

adjudication and the “juvenile court shall complete a dispositional hearing not more than thirty (30) days after the date the court finds that a child is a child in need of services.” Ind. Code § 31-34-19-1. On September 10, 2021, the trial court denied DCS’s motion because the juvenile court stayed the proceedings as required by the UCCJA until West Virginia could assume jurisdiction of the case.

[13] On September 11, 2021, Mother filed a motion to dismiss because the juvenile court had not held a dispositional hearing as required by Indiana Code section 31-34-19-1. On September 13, 2021, DCS filed a motion to correct error regarding the juvenile court’s September 10 order arguing the inclusion of the word “shall” in Indiana Code section 31-34-19-1 indicated the juvenile court was required to hold the dispositional hearing regardless of a stay. On September 14, 2021, the juvenile court entered separate orders denying Mother’s motion to dismiss and DCS’s motion to correct error because “[t]he proceedings are stayed, which preserves the status quo until such time as proceedings are commenced in the proper forum, or the stay is otherwise lifted should West Virginia decline to exercise jurisdiction.” (*Id.* at 165, 167.)

[14] On October 15, 2021, DCS returned I.T. to Mother for a trial home visit in West Virginia. The trial home visit was a success and on November 3, 2021, DCS filed a motion to dismiss the CHINS petition as to I.T. The motion stated that since I.T. was placed with Mother, “[Mother] has adhered to the safety plan signed including ensuring [I.T.] has a therapist in place in WVA and ensuring sibling visits occur.” (*Id.* at 169.) On December 15, 2021, the juvenile



court held a hearing including Judge Cohee of Berkeley County, West Virginia, as well as other stakeholders in West Virginia and Indiana. West Virginia accepted jurisdiction of I.T. because she had been placed with Mother in West Virginia in a trial home visit. However, West Virginia declined jurisdiction of A.R., who remained in Indiana. Indiana retained jurisdiction over A.R., the juvenile court lifted the stay of the proceedings, ordered DCS to prepare a dispositional report as to Children, and set a dispositional hearing for January 12, 2022.

[15] DCS filed its dispositional report on December 20, 2021. DCS noted I.T. was placed with Mother in a trial home visit in West Virginia and A.R. remained in foster placement in Indiana. DCS submitted evidence, based on a letter from the foster placement, that A.R. suffered from multiple physical and mental health issues including acid reflux, tendinitis, polycystic ovarian syndrome, eating disorder, iron deficiency, anxiety, depression, and posttraumatic stress disorder. On January 12, 2022, the juvenile court held its dispositional hearing as to A.R. On January 13, 2022, the trial court entered a dispositional order as to A.R. requiring Mother to “participate in Home Base [sic] Counseling and/or sign releases, to continue in individual therapy and sign releases, to continue treatment at Shennandoah Community Health and sign releases, and to participate in joint therapy with [A.R.]” (*Id.* at 198.) On February 8, 2022, the juvenile court issued an order terminating its wardship over I.T. because the West Virginia court had assumed jurisdiction of the matter involving I.T.

# Discussion and Decision

## 1. Subject Matter Jurisdiction Under The UCCJA

[16] Mother argues<sup>5</sup> the Indiana juvenile court did not have subject matter jurisdiction over the CHINS proceedings under the UCCJA. When we are asked to determine whether a trial court has improperly exercised jurisdiction under the UCCJA, we apply an abuse of discretion standard. *Matter of A.R.*, 110 N.E.3d 387, 397-8 (Ind. Ct. App. 2018). An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before the court or if the court has misinterpreted the law. *Id.* at 398.

[17] “[W]hen considering a CHINS case, a juvenile court must exercise its jurisdiction within the framework and policy considerations of the UCCJA” if there is a jurisdictional dispute, as there is here. *Matter of A.R.*, 110 N.E.3d at 398; *also see* Ind. Code § 31-21-2-5(a)(2) (“child custody proceeding” as defined in the UCCJA includes CHINS proceedings). The facts here are similar to those in *Matter of A.R.* In that case, the mother took the children from their

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<sup>5</sup> Mother also contends the juvenile court’s order denying her motion to dismiss was clearly erroneous because the court failed to make findings and conclusions pursuant to Mother’s request under Indiana Trial Rule 52A(A). The juvenile court issued three orders denying Mother’s various motions to dismiss and Mother does not indicate which order allegedly was clearly erroneous on this basis. However, she did not request specific findings and conclusions under Indiana Trial Rule 52(A) until July 9, 2021, so her argument is applicable to only the juvenile court’s September 14, 2021, order. In that order, the juvenile court made several findings and concluded based thereon that it should deny Mother’s motion to dismiss. (*See App. Vol. II at 165*) (juvenile court’s findings and conclusions in response to Mother’s August 16, 2021, motion to dismiss). Therefore, Mother’s argument fails.

home in North Carolina and brought them to Indiana to live for a period of time. *Matter of A.R.*, 110 N.E.3d at 390. While in Indiana, DCS investigated Mother after it received reports that children missed school, Mother did not have a stable residence, Mother had sex with another adult while the children were in the same room, Mother used drugs in front of the children, and Mother left the children with inappropriate caregivers. *Id.* at 391. Because the family's home was in North Carolina and the children's father wanted the children placed with him in North Carolina, the CHINS matter was subject to the requirements of the UCCJA. *Id.* at 400.

[18] Our court noted the Indiana court's jurisdiction over a CHINS matter is sometimes limited to the duration of the emergency prompting DCS intervention. *Id.* at 399. Pursuant to Indiana Code section 31-21-5-4(a):

An Indiana court has temporary emergency jurisdiction if the child is present in Indiana and:

(1) the child has been abandoned; or

(2) it is necessary in an emergency to protect the child because:

(A) the child;

(B) the child's sibling; or

(C) the child's parent;

is subjected to or threatened with mistreatment or abuse.

[19] As we will discuss *infra*, the juvenile court can retain jurisdiction as a convenient forum until it declines to do so because it is an inconvenient forum under Indiana Code section 31-21-5-8(a). Here, the juvenile court retained jurisdiction until it had adjudicated Children as CHINS and the emergency that prompted the juvenile court’s continued jurisdiction – that is, Mother’s abandonment of Children due to her medical emergency and allegations of domestic violence in the family’s West Virginia home – were alleviated to the juvenile court’s satisfaction. Shortly after the juvenile court adjudicated Children as CHINS, it issued an order relinquishing its emergency jurisdiction and asking the West Virginia court to assume jurisdiction of the matter. Accordingly, the juvenile court did not abuse its discretion when it concluded it had emergency jurisdiction over the CHINS matter.

## **2. Convenient Forum Under The UCCJA**

[20] Mother next argues the trial court abused its discretion when it determined Indiana was a convenient forum for the CHINS proceedings. Pursuant to Indiana Code section 31-21-5-8(a), an Indiana court that has jurisdiction under the UCCJA “may decline to exercise its jurisdiction at any time if the Indiana court determines . . . (1) the Indiana court is an inconvenient forum under the circumstances; and (2) a court of another state is a more appropriate forum.” When considering whether Indiana is an inconvenient forum, the Indiana court “shall consider whether it is appropriate for a court of another state to exercise

jurisdiction.” Ind. Code § 31-21-5-8(b). In making this determination, the Indiana court shall consider several factors, including:

- (1) Whether domestic violence has occurred and is likely to continue in the future and which state is best able to protect the parties and the child.
- (2) The length of time the child has resided outside Indiana.
- (3) The distance between the Indiana court and the court in the state that would assume jurisdiction.
- (4) The relative financial circumstances of the parties.
- (5) An agreement of the parties as to which state should assume jurisdiction.
- (6) The nature and location of the evidence required to resolve the pending litigation, including the child’s testimony.
- (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.
- (8) The familiarity of the court of each state with the facts and issues in the pending litigation.

*Id.*

[21] In its order concluding Indiana was a convenient forum for Children’s CHINS matter, the juvenile court found:

[Children] are in Indiana; [Children's] therapist is in Indiana; the events that are the subject of the CHINS petition occurred in Indiana; Indiana is the location where most of the evidence and witnesses are; any parties who are outside of Indiana can attend all hearings virtually; this case has been pending since March of 2021, and Indiana is most familiar with the facts of this case, putting Indiana in a better position to decide all matters expeditiously; Indiana has already previously held a hearing and found that this court has personal jurisdiction over the parties; if the matter was transferred to West Virginia, Mother would have to retain new counsel; [Children] would likely require new counsel and a new GAL [Guardian ad Litem]; evidence will reportedly be provided at the fact-finding by [A.R.] that domestic violence has occurred; [Children] are doing well in foster care in Indiana; [Children] and Mother have resided in West Virginia for two years; there is a significant distance between Indiana and West Virginia; Mother and DCS agree that Indiana is an inconvenient forum; [M.T.] believes that Indiana is a convenient forum; Counsel for [Children] and Counsel for the GAL believe that Indiana is a convenient forum; and [G.R.] takes no position on the issue of inconvenient forum.

(App. Vol II at 130.) The juvenile court considered factors listed in Indiana Code section 31-21-5-8(b) as well as other relevant factors. Mother contends the evidence before the juvenile court “shows that Indiana is an inconvenient forum and that West Virginia is the proper forum” because “all of the evidence, except for [Mother's] three day medical emergency, rested in West Virginia.” (Mother's Br. at 20.) However, the existence of some facts that may suggest another state is a more convenient forum “do[es] not invalidate the decision the trial court did make.” *Westenberger v. Westenberger*, 813 N.E.2d 343, 349 (Ind. Ct. App. 2004), *trans. denied*. Therefore, the juvenile court did not abuse its

discretion when it determined Indiana was a convenient forum prior to the CHINS adjudication pursuant to Indiana Code section 31-21-5-8(b).

### 3. Timing Of Dispositional Hearing

[22] Mother argues the juvenile court erred when it did not hold a dispositional hearing within thirty days of the CHINS adjudication as required by Indiana Code section 31-34-19-1. On August 16, 2021, shortly after the juvenile court adjudicated Children as CHINS, it issued an order “declining continued exercise of jurisdiction[.]” (App. Vol. II at 139) (original formatting omitted). In that order, the juvenile court found it “exercised emergency jurisdiction under the UCCJA” when it adjudicated Children as CHINS, however, the more appropriate forum for the dispositional order was West Virginia because West Virginia was “in the best position to order and monitor any services for the family, and to maintain and oversee reasonable efforts to reunify the family.” (*Id.*) As required by Indiana Code section 31-21-5-8(c)(1), the juvenile court stayed the proceedings until the West Virginia court could determine whether it would assume jurisdiction over the CHINS cases.

[23] Throughout the proceedings, Mother has filed multiple motions asking the juvenile court to transfer the CHINS matters to West Virginia, where she and Children lived for two years prior to the CHINS cases. Once Indiana determined it was no longer a convenient forum, it began the process of allowing the West Virginia court to determine if it would exercise jurisdiction over the CHINS cases. Pursuant to the UCCJA, when the Indiana court determined it was no longer the convenient forum, it was required to stay all

proceedings until West Virginia determined whether it would accept or decline jurisdiction. A stay is the “postponement or halting of a proceeding, judgment, or the like.” “Stay” Black’s Law Dictionary (11th ed. 2019). Thus, Mother’s argument fails because the juvenile court was not permitted, pursuant to the UCCJA, to hold any hearing until West Virginia accepted or declined jurisdiction. Furthermore, considering the time after the CHINS adjudication but before the stay, four days, and the time between the lift of the stay and the dispositional hearing, twenty-six days, the juvenile court held the dispositional hearing within thirty days of the CHINS adjudication. *See* Ind. Code § 31-14-19-1 (the “juvenile court shall complete a dispositional hearing not more than thirty (30) days after the date the court finds that a child is a child in need of services); *and see Wayne Metal Products, Inc. v. Indiana Dept. of Environmental Management*, 721 N.E.2d 316, 318 (Ind. Ct. App. 1999) (noting language in the relevant statute that a request for review must be made after receiving the relevant notice meant the day the order was received was not included in the calculation of time for appeal), *trans. denied*. Thus, we conclude the juvenile court held its dispositional hearing within the time frame required by Indiana Code section 31-14-19-1.

## Conclusion

[24] The juvenile court properly exercised emergency jurisdiction over the CHINS matters involving Children under the UCCJA. Additionally, Indiana was a convenient forum under the UCCJA until the juvenile court adjudicated the



Children as CHINS. Finally, the trial court held a dispositional hearing within thirty days of the CHINS adjudications because it was required to stay all proceedings until the West Virginia court accepted or declined jurisdiction over the cases. Based thereon, we affirm the juvenile court's adjudication of Children as CHINS.

[25] Affirmed.

Riley, J., and Tavitas, J., concur.