

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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In the Matter of:  
S.S. (Minor Child),  
And  
Ste.S (Father),  
*Appellant-Respondent,*

v.

Indiana Department of Child  
Services,  
*Appellee-Petitioner,*

September 18, 2023  
Court of Appeals Case No.  
23A-JC-694  
Appeal from the Marion Superior  
Court  
The Honorable Marshelle  
Broadwell, Judge  
The Honorable Pauline Beeson,  
Magistrate  
Trial Court Cause No.  
49D16-2207-JC-5673

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And

Kid's Voice of Indiana,

*Appellee-Guardian ad Litem.*

**Memorandum Decision by Judge Riley**  
Judges Bradford and Weissmann concur.

**Riley, Judge.**

**STATEMENT OF THE CASE**

[1] Appellant-Respondent, St.S. (Father), appeals the trial court's Order, adjudicating his minor child, S.S. (Child), as a Child in Need of Services (CHINS).

[2] We affirm.

**ISSUE**

[3] Father presents this court with one issue on appeal, which we restate as:  
Whether the Department of Child Services (DCS) presented sufficient evidence to support the trial court's parental participation decree which required Father to participate in and to successfully complete a Father Engagement program.

## FACTS AND PROCEDURAL HISTORY

- [4] Father is the biological parent to Child, who was born prematurely on December 8, 2020, at twenty-five weeks of gestation. Due to his premature birth, Child has multiple physiological issues. Child was diagnosed with bronchial pulmonary dysplasia, a condition which occurs in a prematurely born child and which develops because the lungs are not fully matured at birth. This condition can be exacerbated by the supplemental oxygen or ventilation needed at a premature birth. Because of this condition, Child's lungs are predisposed to become infected, Child has reduced lung function, and experiences problems with respiratory conditions. In addition, Child was also diagnosed with dysphasia, which causes Child to have difficulty swallowing and causes Child to aspirate foods, even formula. Dysphasia interacts with bronchial pulmonary dysplasia to increase the risk of aspiration and infections. The risk of aspiration, in turn, results in an increased risk of pneumonia.
- [5] On July 29, 2022, after a failed attempt to reach an informal adjustment agreement with Sta.S. (Mother), DCS removed Child from Mother's care. Two days later, on July 31, 2022, DCS filed a CHINS petition, alleging that neglect by Mother required Child's removal. The trial court's order, authorizing the filing of the CHINS petition and Child's removal, noted that Mother had "recently tested positive for cocaine and benzoylecgonine, she has failed to comply with services through her [Informal Adjustment], she lacks stable, appropriate housing for [Child], and she has not successfully demonstrated an ability to meet his significant medical needs." (Appellant's App. Vol. II, p. 48).

[6] On August 1, 2022, DCS filed another CHINS petition, alleging that Father was unable to care for Child, could not ensure Child’s safety while in the care of Mother, and lacked knowledge and training to care for Child. On August 26, 2022, an Amended CHINS petition was filed essentially setting forth the previous allegations but adding that Father “lacks a source of income, lacks a bed for [Child], and does not have the knowledge and training to appropriately meet [Child’s] medical needs at this time[.]” (Appellant’s App. Vol. II, pp. 91-92). In addition, the amended petition asserted that Mother had informed DCS that Father “is engaged in illegal drug activity” and that Father “refused to screen when requested by [DCS] and produced unmarked prescription bottles as justification . . . due to a recent medical procedure[.]” (Appellant’s App. Vol. II, pp. 91-92). The amended petition further argued that the coercive intervention of the trial court was required to ensure Child’s safety and well-being.

[7] On November 9, 2022, after mediation, DCS filed an agreed entry wherein Mother admitted that Child and five of Mother’s other children were CHINS and agreed to proceed to a disposition at a later hearing. On February 14, 2023, the trial court adjudicated Child as a CHINS, accepted Mother’s admission, and noted Father’s waiver of a fact-finding hearing and his objection “to the recommended services[.]” (Appellant’s App. Vol. II, p. 181). On February 14,

2023, the trial court entered a dispositional decree “as to [Mother].”<sup>1</sup>  
(Appellant’s App. Vol. II, p. 184).

[8] On February 28, 2023, the trial court conducted a dispositional hearing as to Father only. During the hearing, Father’s assigned nurse case worker, Rachel Konrad (Nurse Konrad), a registered nurse from Journey Support Services, testified that she instructed Father on the importance of Child’s medical care. Nurse Konrad explained that she worked with Father and taught him how to thicken the liquids and feed Child. Although Nurse Konrad had informed him about the importance of using a proper measuring spoon, Father insisted on using a flatware spoon to measure the thickening agent. Nurse Konrad also imparted on Father the importance of attending and being involved in Child’s medical and therapy appointments, as well as following the medical instructions for Child’s treatment. Child had already demonstrated delays and was being followed by an occupational therapist. Nurse Konrad testified that she was only aware of Father attending one or two of Child’s medical appointments. Nurse Konrad advised the trial court that Father did not seem able to retain information he was given about Child’s care and needed more services to be able to properly care for Child.

[9] Because Father had a prior conviction for dealing marijuana and a pending criminal proceeding for dealing marijuana and cocaine, DCS recommended

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<sup>1</sup> Mother does not appeal the trial court’s dispositional decree.

that Father participate in random drug screens and a substance abuse assessment. Father informed his Family Case Manager (FCM) that he was having problems with coordinating his random drug screens. However, a follow-up by FCM with the drug screen provider revealed that Father had never contacted the drug screen provider. Father had not submitted any urine screens between Child's removal on July 31, 2022, and the dispositional hearing on February 23, 2023.

[10] FCM advised Father to participate in the Father Engagement program as it would assist Father by providing parenting education, helping him build a bond with Child, helping him to maintain a stable home and a stable legal income, and developing budgeting skills. Although Father claimed he was employed, he did not submit a legible pay stub and at least one provider reported Father was unemployed. While Father had informed FCM that he had met with the Father Engagement provider, the provider clarified that no meeting had taken place because Father kept rescheduling the initial appointment.

[11] At the close of the evidence, the trial court issued a parental participation decree, ordering Father to complete a substance abuse assessment and successfully complete all treatment recommendations, submit to random drug screens, successfully complete a Father Engagement program, and successfully complete all services recommended by the nursing care case management.

[12] Father now appeals. Additional facts will be provided as necessary.

## DISCUSSION AND DECISION

[13] Not contesting the trial court's CHINS adjudication, Father contends that the trial court abused its discretion when it ordered Father to participate in the Father Engagement program as part of its parental participation decree. Following a CHINS determination and dispositional hearing, the trial court issues a dispositional order which details the plan of care, treatment, or rehabilitation required to address the needs of the child, and which includes the entry of findings and conclusions. *See* Ind. Code §§ 31-34-19-1, -10.

[14] Indiana Code section 31-34-20-3 provides,

If the juvenile court determines that a parent, guardian, or custodian should participate in a program of care, treatment, or rehabilitation for the child, the court may order the parent, guardian, or custodian to do the following:

- (1) Obtain assistance in fulfilling the obligations as a parent, guardian, or custodian.
- (2) Provide specified care, treatment, or supervision for the child.
- (3) Work with a person providing care, treatment, or rehabilitation for the child.
- (4) Participate in a program operated by or through the department of correction.
- (5) Participate in a mental health or addiction program.

“Although the juvenile court has broad discretion in determining what programs and services in which a parent is required to participate, the requirements must relate to some behavior or circumstance that was revealed by the evidence.” *In re A.C.*, 905 N.E.2d 456, 464 (Ind. Ct. App. 2009). This

court has recognized that forcing unnecessary requirements on parents whose children have been determined to be CHINS can set them up for failure and can result in failed reunification of the family and even the termination of parental rights. *Id.* at 464-65. These possible ramifications are inconsistent with the general requirement that “the [DCS] shall make reasonable efforts to preserve and reunify families,” and unduly interfere with the parent-child relationship. *See* I.C. § 31-34-21-5.5.

[15] The Father Engagement program encompasses a myriad of services focused on ensuring a child’s safety. The curriculum assists in “parenting education,” aids in building a bond with the child, helps with “finding stable employment and housing [] and budgeting, and other things like that.” (Transcript p. 10). Contradictory evidence at the hearing reflects that while Father presented FCM with an illegible copy of a paystub, another service provider indicated that Father had represented himself to be unemployed. FCM testified that Father received food stamps, signaling that while he might be employed, he may need additional assistance to provide for Child. Despite FCM’s testimony that Father and Child bonded during supervised visitations, the evidence also reflects that Father had been essentially absent from Child’s life prior to DCS’s involvement and FCM advised that “we want to get to a point where he’s able to care for [Child’s] needs . . . while he’s living with him.” (Tr. p. at 13). As such, the Father Engagement program would instill Father with the skills to care for Child without supervision.

[16] Father contends that the trial court conflated the need for him to complete the nursing care case management services with the need for the Father Engagement program. However, the two services focus on different needs required by the parent to keep Child safe and, here, the necessity for each is supported by the evidence. The trial court required Father's participation in the nursing care case management services to help Father understand Child's therapeutic and medical needs and to properly execute the medical directives to provide for Child's health and safety. The Father Engagement program addresses the development of Father's practical life skills, it evaluates the stability and child-safety of Father's home, it provides employment assistance, and it develops Father's coping, communication, and scheduling skills.

[17] Although Father refers this court to *In re A.C.*, 905 N.E.2d at 464 and *In re A.M.-K*, 983 N.E.2d 210, 214 (Ind. Ct. App. 2013) in support of his position that the trial court's order for parents to participate in certain services must relate to some behavior or circumstance that was revealed by the evidence, we find Father's analogy to these cases to be without merit. In *In re A.C.*, 905 N.E.2d at 464, we reversed the trial court's requirement of its participation decree which ordered Mother to participate in and successfully complete a drug and alcohol assessment because there was no "allegation or even an indication that Mother has a substance abuse problem[;]" whereas, here, there is evidence that Father would benefit from the skills gained and assistance provided through the Father Engagement program. While in *In re A.M.-K*, 983 N.E.2d at 214, this court addressed the situation where a parent objected to an order

directing the parent to take all medications as prescribed and presented evidence of side effects and religious beliefs supporting that objection, no such health concerns, religious beliefs, or objections are present here.

- [18] In light of the evidence presented during the dispositional hearing and mindful of the purpose of a CHINS adjudication, we conclude that DCS presented sufficient evidence to support the requirement in the parental participation decree that Father participate in and successfully complete the Father Engagement program. The testimony presented supports that the program would address and assist Father with employment and budgeting, would educate him on Child's needs, would assist him in taking care of Child's current needs and would teach him to advocate for Child's future needs.

## **CONCLUSION**

- [19] Based on the foregoing, we hold that the trial court did not abuse its discretion by ordering Father to participate in and successfully complete the Father Engagement program.
- [20] Affirmed.
- [21] Bradford, J. and Weissmann, J. concur