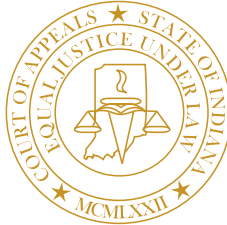


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

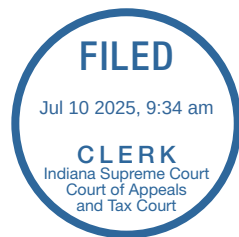
In the Matter of C.T. (Minor Child), Child in Need of Services,
and F.S. (Guardian),

Appellant-Respondent

v.

Indiana Department of Child Services,

Appellee-Petitioner



July 10, 2025

Court of Appeals Case No.
24A-JC-2548

Appeal from the Hancock Superior Court
The Honorable Cody Coombs, Magistrate

Trial Court Cause No.
30D01-2403-JC-82

Memorandum Decision by Judge Bailey
Judges Brown and Weissmann concur.

Bailey, Judge.

Case Summary

- [1] Following factfinding and dispositional hearings and orders, F.S. (“Guardian”) appeals the trial court’s order adjudicating C.T., (“Child”) a Child in Need of Services (“CHINS”).¹ She purports to raise three issues on appeal, which we consolidate and restate as the following dispositive issue: whether there was sufficient evidence to support the determination that Child is a CHINS. We affirm.

Facts and Procedural History

- [2] Child was born on May 18, 2010. Child’s biological mother has not had contact with Child since 2017. The whereabouts of Child’s legal father are unknown. Child’s alleged biological father lives outside the country. Guardian has been Child’s guardian since January 17, 2019, and she is married to R.M. (“Caregiver”). Child lived with Guardian, Caregiver, and Caregiver’s two children from a previous marriage.
- [3] A.M. (“Babysitter”) provided babysitting services for the family between June 2021 and November 2022 and again between August 2023 and January 2024. On one occasion, Babysitter heard Guardian tell Child, “I wouldn’t have slapped you if you would have kept your mouth shut and not talked back.” Tr.

¹ Neither Child’s biological mother, R.T., Child’s legal father, J.M., Child’s alleged biological father, E.A., nor the spouse of Guardian, R.M. (“Caregiver”), participates in this appeal.

v. 2 at 24. Child did not have any bruising that time, but Babysitter noticed bruising on Child’s face on two other occasions. The first time was on May 27, 2022, but Child was unwilling to reveal to Babysitter how she had obtained the bruising. Babysitter took a picture of that bruising. When Caregiver picked up Child from Babysitter that day, Babysitter overheard Caregiver saying to Child “that was where your mother had slapped because I slapped you on the other side.” *Id.* at 17.

[4] The second time Babysitter noticed bruising on Child’s face was on October 1, 2023. That evening Guardian and Child came to Babysitter’s house, and Guardian told Babysitter that Caregiver had struck Child. Guardian had asked Child to wear makeup over the bruise, although the bruising was still visible. At Guardian’s request, Child stayed overnight with Babysitter, and Babysitter had Child wash the makeup off her face. The following morning, Babysitter took a picture of the bruising. The bruise was swollen and discolored, with visible finger marks. Guardian asked Babysitter to keep Child home from school and “out of the public eye.” *Id.* at 61. Child did not attend school for a few days.

[5] On February 14, 2024, the Indiana Department of Child Services (“DCS”) initiated an investigation into allegations that Child had been physically abused by Guardian and Caregiver. Both Guardian and Caregiver denied the allegations and alleged that Child’s injuries were from “self-harm.” *Id.* at 76. Guardian informed DCS that Child has reactive attachment disorder (“RAD”), post-traumatic stress disorder (“PTSD”), and anxiety; that Child had received treatment from a psychiatrist for two years; and that Child “struggles due to

[RAD] to grasp reality and to be believe[d].” *Id.* at 77. Child had not been in therapy since November 2023. Guardian told DCS that Child has self-harming behaviors and that, at one point, Child had “run out in the road,” so Guardian “had used zip ties to restrain” Child. *Id.* Guardian also contended that the bruising on Child in October 2023 was caused by Child “slamm[ing] her head against a table” in an effort to self-harm. *Id.* at 78. Caregiver also denied the allegations but admitted that he and Guardian had hit Child in the past as discipline. Caregiver told DCS that the bruising on Child in October was a result of Child hitting her own face against a wall.

[6] DCS referred Child’s case to the Indiana University (“I.U.”) Child Protection Team for “pediatric evaluation and diagnostic services” (“PEDS”) on February 21. *Id.* at 124. Pediatric Nurse Practitioner Anne Gordon and other PEDS team members reviewed the information DCS had about Child, including two pictures of the bruising on Child’s face in October. One of those pictures was a “close up” of Child’s face that was never admitted into evidence in this case. *Id.* at 126.

[7] DCS filed a CHINS petition regarding Child on March 5, 2024. At that time, Child was still living with Guardian, Caregiver, and Caregiver’s two children. The petition alleged that Child had “disclosed physical abuse by [Guardian] and [Caregiver,]” including being “zip-tied” by Guardian. App. v. 2 at 74. The petition further alleged that the I.U. Child Protection Team concluded from their evaluation of the case that the allegations that Child’s bruising was from self-harm were “not [] plausible,” and the injuries disclosed in the photographs

“are most consistent with [Child’s] statement” that she had been hit. *Id.* The petition alleged that Child’s psychiatrist had diagnosed Child with RAD, PTSD, and Mood Disorder but had never stated that Child should not be believed due to her diagnoses, and the psychiatrist indicated that Child had not been engaged in therapy for at least two months.

[8] On April 4, the State charged Caregiver with two counts of domestic battery against Child, and a court issued a no-contact order as to Caregiver and Child. On April 16, DCS amended its CHINS petition to include the charges against Caregiver.

[9] The court held a factfinding hearing on April 25, 29, and 30. At that time, Caregiver was no longer living with Guardian and Child. DCS presented evidence, including testimony of Babysitter, DCS Family Case Manager (“FCM”) Victoria Vail, and Gordon. Guardian’s evidence included testimony of expert witness Stephanie Whiteside, Guardian ad Litem (“GAL”) Denise Hayden, and therapist Christina Falink.

[10] Gordon testified about the I.U. Child Protection Team evaluation. She disclosed that the team was not provided with information about Child’s diagnoses or alleged history of self-harm, and they were not able to interview Child, Guardian, or Caregiver. However, she stated that the information DCS provided regarding Child was “of the type reasonably relied on” by the team when they get a PEDS referral. *Tr. v. 2* at 125. She noted that she also followed

the normal protocol in cases involving child abuse by obtaining a review of the team's evaluation from the "attending child abuse [] pediatrician." *Id.* at 126.

[11] Gordon observed from the photographs that Child had excessive, diffuse bruising on her right cheek on different planes of the face. Gordon testified that, based on the pictures from October 2023, she concluded that it was more plausible that Child was hit by someone else than that Child inflicted self-harm. Gordon noted that a single impact from a hard surface like a table or wall would not be expected to result in the diffuse bruising shown in the pictures. She noted that the pattern of the bruising was "a classic pattern for a high-impact to the face ... like a slap." *Id.* at 129. However, she "acknowledged that lighting and shadow could be problematic for evaluation of the photo[s]." Appealed Order at 4. Gordon stated that, if a child was self-harming to the extent of bruising herself, the child should be given medical care.

[12] Whiteside testified for Guardian as an expert on trauma and treating children with RAD. She testified that children with RAD often have "lying behaviors" as coping mechanisms, but they are capable of telling the truth and do not always lie. Tr. v. 3 at 2. Whitehead noted that it is "not unusual" for children with RAD to engage in "self-harming behaviors." *Id.* at 6. She further opined that zip-tying and striking a child with RAD are not appropriate methods of discipline. Whitehead stated that she had never spoken with or evaluated Child but that no physical punishment is appropriate for a child with RAD.

[13] GAL Hayden also testified for Guardian and expressed no concerns for Child being in Guardian's care. However, Hayden admitted

that she has only spent approximately twenty-four hours of time with the Child, with only six of those hours being spent with the Child in 2024. Ms. Hayden acknowledged that she has not witnessed any contact between [Guardian] and the Child since 2017, and that she did not ask [Guardian] about the alleged physical abuse that is the subject of this matter. Ms. Hayden did, however, testify that [Guardian's] decision to zip-tie the Child was not an appropriate form of discipline.

Appealed Order at 6.

[14] At the time of the factfinding hearing, Child was in therapy with Falink. Falink had had several therapy sessions with Child and confirmed Child's diagnoses of RAD, PTSD, and anxiety. Falink expressed no concerns about Child being in Guardian's care but acknowledged that the only records she had reviewed regarding Child were medical records from 2024 and 2022.

[15] On June 26, 2024, the trial court issued findings of fact, conclusions of law, and its judgment. In addition to the facts stated above, the court also found that there was no "evidence that [] Child ever received medical attention from the bruising or for suspected self-harm." *Id.* at 4. The court further found "Hayden's testimony as to the physical abuse to be of limited use in determining whether [] Child is a child in need of services." *Id.* at 6. The court found that, in addition to being "engaged with" a psychiatrist for two years, Child had also been enrolled in an "intensive outpatient program" initiated by

Guardian without the involvement of DCS. *Id.* at 7. The court noted that Guardian “was involved in her own counseling, and [Caregiver] had attended couples counseling.” *Id.* at 8.

[16] The trial court’s conclusions of law included the following:

34. The Child has shown signs of being physically abused on at least two occasions[,], both of which resulted in bruising on the Child’s face. A medical expert testified that the bruise to the Child’s face in October 2023 was most consistent with an inflicted injury, not self-harm.
35. The Child has been slapped on the face by [Guardian], on at least one occasion. [Guardian] also zip-tied the child as a form of discipline. Zip-tying a child is not an appropriate form of discipline for nearly every child in nearly every circumstance, but it is especially inappropriate here given the Child’s history of trauma, sustained in her very young life with biological parents, and her various mental health diagnoses.
36. [Guardian] has failed to ensure the Child has had consistent therapy. The Child went without therapy from November 2023 through early March 2024.

* * *

40. Even if the bruising to the Child’s face had not been caused by [Guardian] or [Caregiver], neither [Guardian] nor [Caregiver] took the Child for medical treatment after her face was injured.

* * *

43. Upon the PEDS review of the information provided, taking into account their specialized medical training and experience, their medical opinion was that the child's story of being hit was more plausible than [Guardian's] and [Caregiver's] explanations of the Child hitting a table or wall....

* * *

45. Ms. Gordon testified, based on the information provided and her expertise in this area[,] that it was unlikely the injuries occurred by accident, but that the injuries were likely inflicted on the Child. The evidence was competent and probative, and therefore sufficient to trigger the application of the presumption statute and shift the burden of producing evidence to rebut the presumption to Respondents.

* * *

47. Respondents were not able to rebut the presumption. Respondents provided testimony evidence that the Child has diagnoses of RAD, PTSD, and anxiety and testimony of a history of self-harming behaviors, but no evidence as to what happened in May 2022 or October 2023 that led to the Child's injuries. Respondent[s] called no doctor or witness with personal knowledge as to the Child's medical or mental health around those two time periods to provide an alternate explanation as to the injuries. Further, the Respondents did not provide evidence to rebut the presumption that the Child was in their care, custody, or control.
48. Finally, the Respondents provide[d] no evidence that the injuries were accidental. The only two individuals with the

Child when these two incidents occurred were [Caregiver] and [Guardian], and the Court finds their explanations of self-harm by the Child to not be credible. Ms. Gordon testified that the bruising depicted in the photograph of the October 2023 bruise was unlikely to have been caused by self-harm. And, while the Court acknowledges [Caregiver's] right against self-incrimination, no testimony was provided as to why the statements given by [Guardian] and [Caregiver] to Ms. Vail during the assessment phase did not match.

* * *

52. There is a rebuttable presumption that a child is a child in need of services if the state establishes that the child lives in the same household as an adult who has been charged with domestic batter[y] and is awaiting trial, and the state has also done this, through testimony that [Caregiver] was a caregiver for the Child in her household when the incident occurred and he is awaiting trial for the two counts of battery against her.

Id. at 8-12.

- [17] The court adjudicated Child to be a CHINS, noted that Child had not been removed and was currently placed with Guardian, and ordered that DCS have continuing responsibility for Child's placement. On August 29, the court conducted a dispositional hearing. On September 19, it issued its dispositional order noting that Child is a CHINS, providing, in relevant part, that Child shall remain in her current placement with supervision by DCS, and ordering

Guardian and Caregiver to engage in specified services and/or treatment. This appeal ensued.

Discussion and Decision

[18] The trial court adjudicated Child to be a CHINS under Indiana Code Sections 31-34-1-1² and 31-34-1-2(b).³ The court also found that Child is a CHINS under the rebuttable presumptions of Indiana Code Sections 31-34-12-4 and -4.5. We do not address Guardian's arguments with regard to Indiana Code Sections 31-34-1-1 and -2 or Indiana Code Section 31-34-12-4.5⁴ because we conclude that

² 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.

Ind. Code § 31-34-1-1.

³ Indiana Code Section 31-34-1-2(b) provides, in relevant part:

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is a victim of:

(C) an offense under IC 35-42-2-1.3 [Domestic Battery];

(2) the offense described in subdivision (1) was committed by the parent, guardian, or custodian of the child; and

(3) 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.

⁴ We note that, even if we addressed Guardian's "argument" on the Section 4.5 presumption, we would find it fails as it consists of merely two sentences that both argue, without citation to legal authority, that the

the court properly determined that the rebuttable presumption set out in Indiana Code Sections 31-34-12-4 applies in this case and that Guardian failed to rebut that presumption. *See M.M. v. Ind. Dep't of Child Servs. (In re R.G.)*, 130 N.E.3d 1171, 1179 (Ind. Ct. App. 2019) (declining to address arguments regarding I.C. §§ 31-34-1-1 and -2 because the rebuttable presumption of I.C. § 31-34-12-4 applied and the parents had failed to rebut it), *trans. denied*.

[19] In reviewing a CHINS determination, we do not reweigh evidence or assess witness credibility but consider only the evidence in favor of the juvenile court's judgment, along with any reasonable inferences arising therefrom. *E.g., J.M. v. Ind. Dep't of Child Servs., (In re N.C.)*, 72 N.E.3d 519, 523 (Ind. Ct. App. 2017). When the trial court enters findings of fact and conclusions thereon, we apply a two-tiered standard of review to the issues covered by the findings: we consider, first, whether the evidence supports the findings and, second, whether the findings support the judgment. Ind. Trial Rule 52(A); *J.B. v. Ind. Dep't of Child Servs. (In re S.D.)*, 2 N.E.3d 1283, 1287 (Ind. 2014). Unchallenged findings stand as proven. *See, e.g., J.M. v. Ind. Dep't of Child Servs. (In re A.M.)*, 121 N.E.3d 556, 562-63 (Ind. Ct. App. 2019), *trans. denied*.

[20] However, “we review the remaining issues under the general judgment standard, under which a judgment will be affirmed if it can be sustained on any legal theory supported by the evidence.” *In re S.D.*, 2 N.E.3d at 1287 (quotation

presumption is inapplicable because Caregiver was not living with Child at the time of the factfinding hearing. That “argument” is insufficient under Indiana Appellate Rule 46(A)(8).

marks and citation omitted). Under the general judgment standard of review, the reviewing court “may look both to other findings and beyond the findings to the evidence of record to determine if the result is against the facts and circumstances before the court.” *C.B. v. B.W.*, 985 N.E.2d 340, 344 (Ind. Ct. App. 2013), *trans. denied*. In deference to the trial court’s proximity to the issues, an appellate court will “disturb the judgment only where there is no evidence supporting the findings or the findings fail to support the judgment.” *In re Guardianship of B.H.*, 770 N.E.2d 283, 287-88 (Ind. 2002) (quotations and citations omitted).

Findings of Fact

[21] Guardian does not challenge most of the trial court’s findings of fact, and those unchallenged findings stand as proven. *See A.M.*, 121 N.E.3d at 562-63. However, Guardian does challenge findings of fact numbers 8, 18, 23, 34-36, 45, 47, and 52. We address each finding in turn.

[22] Finding 8 states, in relevant part, that DCS alleges Child is a CHINS due to “ongoing” discipline. Appealed Order at 2. Guardian takes issue with the word “ongoing” and notes that the CHINS petitions themselves do not use that word. However, the petitions reference—and the evidence proved—multiple instances of physical abuse by Guardian and/or Caregiver. It was reasonable for the court to infer from that evidence that the abusive “discipline” was “ongoing.” *Id.*

[23] Guardian challenges Finding 18 to the extent it provides that “Ms. Gordon further testified ... that a caregiver should know that ‘diffuse bruising to that

extent needs medical attention and medical evaluation.’’ *Id.* at 4. However, that finding is supported by Gordon’s testimony, including the following statement: “I would expect ... an appropriate caregiver to recognize that that was diffuse bruising ... that would need a medical evaluation.” Tr. v. 2 at 133. To the extent Guardian challenges Gordon’s conclusion that the photographs show diffuse bruising on Child, Guardian is merely asking us to reweigh the evidence and/or judge witness credibility, which we will not do.

[24] Guardian challenges the following portion of Finding 23: “Finally, the Court notes, Ms. Whiteside’s testimony that zip-tying a child with RAD and striking a child with RAD are not appropriate methods of discipline.” Appealed Order at 6. Guardian notes that Whiteside never said those actions were discipline. However, the finding is supported by Whiteside’s testimony that zip-tying or hitting a child with RAD is “not an appropriate way to handle ... a child with RAD” and that children with RAD should not receive any “physical ... punishment whatsoever.” Tr. v. 3 at 24-25.

[25] Guardian also challenges the portion of Finding 34 that notes there were signs of abuse resulting in bruising on at least two occasions. Guardian asserts that there was insufficient evidence of abuse in May 2022. However, Finding 34 is supported by the photographs from May 2022 and October 2023 and Babysitter’s testimony that she observed the bruising on Child’s face on those two occasions.

- [26] Guardian challenges the first two sentences of Finding 35. Specifically, Guardian asserts that there is no evidence that she—as opposed to Caregiver—slapped Child, and that there is no evidence she zip-tied Child as a form of discipline. However, Babysitter testified that she overheard Guardian admitting to slapping Child on one occasion because Child had engaged in “back talk,” Tr. v. 2 at 24, and she overheard Caregiver telling Child that the bruise on her face in May 2022 was from where Guardian had slapped Child and that he had “slapped [her] on the other side,” *id.* at 17. Moreover, Guardian admitted to zip-tying Child. While Guardian alleged she did so to protect Child from self-harm, the court was free to disbelieve that self-serving testimony and infer that the zip-tying was done as a form of discipline, especially given the other evidence that Guardian had slapped Child before as a form of discipline. The evidence supported Finding 35.
- [27] Guardian challenges Finding 36 as it relates to inconsistent therapy. However, it is undisputed that Child had therapy for two years but then went without therapy from November 2023 through early March 2024. Guardian’s challenge to this finding is merely an assertion that the court weighed the evidence incorrectly by concluding that a four-month period without therapy meant therapy was inconsistent.
- [28] Guardian purports to challenge Finding 45 in its entirety, but the second sentence of the two-sentence finding is a conclusion of law, not a finding of fact.

And the first sentence⁵ of the finding is supported by Gordon’s detailed testimony about the appearance of the bruises on Child. Guardian points out the deficiencies in the photograph that Gordon reviewed in reaching her conclusions, but that goes only to the weight to be given to Gordon’s testimony.

[29] Finally, Guardian challenges findings 47 and 52 which relate to the statutory rebuttable presumptions. As already noted, we do not address whether the rebuttable presumption of Indiana Code Section 31-34-12-4.5 was met because we conclude—as discussed in detail below—that DCS showed a presumption that Child is a CHINS under Indiana Code Section 31-34-12-4, and Guardian failed to rebut that presumption.

Sufficiency of Evidence of Unrebutted Presumption

[30] Guardian challenges the sufficiency of the evidence to support the trial court’s finding of an unrebutted presumption that Child is a CHINS pursuant to Indiana Code Section 31-34-12-4, which provides:

A rebuttable presumption is raised that the child is a child in need of services because of an act or omission of the child’s parent, guardian, or custodian if the state introduces competent evidence of probative value that:

⁵ “Ms. Gordon testified, based on the information provided and her expertise in this area[,] that it was unlikely the injuries occurred by accident, but that the injuries were likely inflicted on the Child.” Appealed Order at 10.

(1) the child has been injured;

(2) at the time the child was injured, the parent, guardian, or custodian:

(A) had the care, custody, or control of the child; or

(B) had legal responsibility for the care, custody, or control of the child;

(3) the injury would not ordinarily be sustained except for the act or omission of a parent, guardian, or custodian; and

(4) there is a reasonable probability that the injury was not accidental.

[31] DCS “need only produce some relevant and admissible evidence tending to establish the elements of the Presumption Statute in order to shift the burden of production to the parents or custodians.” *Ind. Dep’t of Child Servs. v. J.D.*, 77 N.E.3d 801, 809 (Ind. Ct. App. 2017), *trans. denied*. Once DCS makes that showing, “the rebuttable presumption that a child is a CHINS applies to all the statutory CHINS elements in chapter 1, including the ‘coercive intervention’ element.” *M.Y. v. Ind. Dep’t of Child Servs. (In re K.Y.)*, 145 N.E.3d 854, 861 (Ind. Ct. App. 2020) (citation omitted), *trans. denied*; *see also J.D.*, 77 N.E.3d at 809 n.3 (“In other words, there is a rebuttable presumption not only that Child’s physical or mental health is endangered, but also that Child needs care, treatment, or rehabilitation that he is not receiving and is unlikely to be provided or accepted without the coercive intervention of the court.”).

[32] DCS presented competent evidence of probative value that Child was injured; the evidence showed that Child sustained bruising on her face on at least two occasions. And it is undisputed that Guardian had legal responsibility for the care, custody, or control of Child at the time of the injuries; not only was there a guardianship in place but Child lived with Guardian and Caregiver at the time the injuries were sustained. Moreover, as noted above, DCS provided competent evidence of probative value that Child's injuries would not ordinarily be sustained except for the act or omission of Guardian and that there is a reasonable probability that the injuries were not accidental. Gordon, a pediatric nurse practitioner, testified about why the PEDS team concluded Child's injuries were not of the type that would happen accidentally or from self-harm, but were consistent with an injury that is inflicted by another. Gordon further testified that a competent caregiver would have provided medical treatment for Child's injuries. We agree with the court's conclusion that the evidence from Gordon, a medical expert, was competent, probative, and sufficient to trigger the presumption of Indiana Code Section 31-34-12-4. Guardian's contentions to the contrary are, once again, merely requests that we reweigh the evidence and/or judge witness credibility.

[33] Nor did the trial court err in concluding that Guardian failed to provide sufficient evidence to rebut the presumption.⁶ Guardian provided no medical

⁶ Guardian maintains that the conditions that led to the CHINS filing—specifically, abusive Caregiver living in the home with Child—had ceased to exist by the time of the factfinding hearing. However, she cites no legal authority to support that, even if true, that fact would rebut the presumption that Child is a CHINS;

evidence to show that she or Caregiver had obtained medical treatment for Child's injuries or that Child's injuries were accidental and/or the result of self-harm. Neither Whiteside, Hayden, nor Falink had personal knowledge as to Child's medical or mental health around the time of the Child's injuries, nor did they testify about Child's injuries. And the Guardian's and Caretaker's self-serving testimony that the injuries were self-inflicted were not supported by any other evidence and were, in fact, contradicted by Gordon's expert medical testimony. Thus, the trial court specifically found "their explanations of self-harm by the Child to not be credible." Appealed Order at 11. We may not second-guess that finding regarding witness credibility, nor may we reweigh the evidence as Guardian asks.

Conclusion

[34] There was sufficient, competent evidence of probative value to support the trial court's findings and those findings support the conclusions and judgment that Child is a CHINS. Guardian's contentions to the contrary are requests that we reweigh the evidence and/or judge witness credibility, which we may not do. *See, e.g., In re N.C.*, 72 N.E.3d at 523.

none of the case law Guardian cites involved a rebuttable presumption. Rather, the relevant legal authority provides that, once DCS provides sufficient evidence to support the elements of the presumption (none of which are that the harmful conditions are ongoing), it is presumed Child is a CHINS unless the parent or guardian can prove otherwise. *See, e.g., J.D.*, 77 N.E.3d at 809. Moreover, Guardian fails to acknowledge the facts that she had also abused Child and that she still lived with Child; therefore, not all conditions leading to the filing of the CHINS had "ceased to exist." Appellant's Br. at 16.

[35] Affirmed.

Brown, J., and Weissmann, J., concur.

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