

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of I.B., E.B., A.B.,
and M.B. (Children),

F.B. (Mother),

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner,

and

Kids' Voice of Indiana

Appellee-Guardian Ad Litem.

August 29, 2022

Court of Appeals Case No.
22A-JC-585

Appeal from the Marion Superior
Court

The Honorable Rosanne T. Ang,
Magistrate

Trial Court Cause Nos.
49D09-2106-JC-5096
49D09-2106-JC-5298
49D09-2106-JC-5300
49D09-2106-JC-5301

Brown, Judge.

- [1] F.B. (“Mother”) appeals the determination that her children are children in need of services (“CHINS”). We affirm.

Facts and Procedural History

- [2] Mother is the adoptive mother of I.B., who was born in 2008, E.B., who was born in 2010, A.B., who was born in 2012, and M.B., who was born in 2017. In June 2021, the Indiana Department of Child Services (“DCS”) filed petitions alleging the children were CHINS and that Mother failed to provide them with a safe, stable, and appropriate living environment. DCS alleged that Mother had made multiple comments that raised concerns regarding her mental health and stated the children were “possessed by spirits” and A.B. “controls the other children through these spirits.” Appellant’s Appendix Volume II at 45, 49. It alleged that A.B. “reported sustaining a burn while [Mother] was trying ‘to rid the child of the spirits’ by burning sage.” *Id.* at 46, 49.
- [3] DCS alleged that A.B. “disclosed she is locked out of the home on occasion for long periods of time and that she does not have access to a bathroom causing her to urinate on herself.” *Id.* at 46. It alleged that Family Case Manager Kellie Mink (“FCM Mink”) observed I.B. to have very dark circles under her eyes, to be in an altered state of mind, and to be unable to say her name or age and that E.B. had very dark circles under her eyes and spoke in a robotic voice. It alleged that “[E.B.] stated [A.B.] ‘takes her eyesight away from her and shows her where to go with arrows.’” *Id.* at 49. It alleged Mother has not taken

necessary action to address her mental health needs and/or those of the children and she expressed being unable to continue caring for E.B. and I.B. The court issued orders indicating it held a hearing and approved the placement of the children outside of Mother's care. The court held a factfinding hearing at which it heard testimony from, among others, Mother, FCM Mink, Family Case Manager Amanda Anderson ("FCM Anderson"), and Ashley Barger, a care coordinator with Choices Coordinated Care Solutions.

[4] On January 24, 2022, the trial court entered an order finding the children were CHINS. The order provided:

7. The family has come to the attention of the DCS due to the three older children repeatedly running away.

8. On June 15, 2021, [FCM Mink] was assigned to a report regarding the . . . children. The report alleged that law enforcement was at the home requesting assistance due to a disturbance at the home. The report alleged that the children were trying to jump off the second floor and one child was outside. FCM Mink and another family case manager went to the home to initiate the assessment.

9. Upon arriving at the home, FCM Mink observed [A.B.] outside of the home with law enforcement officers. [I.B.] and [E.B.] were inside the home, speaking robotically and unable to state their names or ages. [I.B.] and [E.B.] attempted to run out of the home. [I.B.] began convulsing on the couch. Upon appearing to come out of the convulsions, [I.B.] indicated that she was a robot and that her sister was her master. [I.B.] and [E.B.] were hanging from the second-floor banister and had to be removed by law enforcement officers.

10. [Mother] refused [A.B.] entry into the home when she attempted to use the restroom and get water. FCM Mink observed [I.B.] and [E.B.] begin to act erratically when [A.B.] approached the home.

11. [Mother] informed FCM Mink that [A.B.] was outside the home so that her spirit could not enter the home and control the other three children. [Mother] also believed that [A.B.] was possessing the other children and was making [I.B.] and [E.B.] speak in robotic tones and run away. [Mother] was not concerned about [I.B.] because demon spirits were controlling her actions.

12. [A.B.] was removed from the care of [Mother] at the conclusion of FCM Mink's assessment.

13. On June 21, 2021, FCM Mink was assigned to a report regarding [I.B.], [E.B.] and [M.B.]. The report alleged that [Mother] called the hotline and requested that [I.B.] and [E.B.] be removed. The report alleged that [Mother] stated that [A.B.] was still controlling [I.B.] and [E.B.] and that [A.B.] was compelling the children to destroy items in the home. FCM Mink immediately went to the . . . home and requested that law enforcement officers assist her.

14. [Mother] informed FCM Mink that [I.B.] and [E.B.] had destroyed the home by pouring water and lotion on the floor. [Mother] indicated that [A.B.] was contacting the children through spirits to tell them to lie to DCS, hit themselves and say that [Mother] did it. [Mother] indicated that she decided to contact the DCS because [A.B.] was instructing the children to break all the glass in the cabinets. [Mother] requested removal of [I.B.] and [E.B.] but requested that [M.B.] remain in the home because she was not as susceptible to [A.B.'s] spirits.

15. Due to mental health concerns and the lack of a safe and stable home environment, FCM Mink removed [I.B.], [E.B.] and [M.B.] from the care of [Mother] following the June 21, 2021 assessment.

16. [FCM Anderson] has been assigned as the family's permanency worker since the end of June 2020. FCM Anderson was initially assigned to [A.B.] and was assigned to [I.B.], [E.B.] and [M.B.] upon their removal.

17. Prior to contacting the DCS hotline regarding [I.B.], [E.B.] and [M.B.], [Mother] requested that FCM Anderson pick them up.

[Mother] informed FCM Anderson that the three children were still under the control of [A.B.'s] demons. [Mother] asked FCM Anderson how to “get rid of the children”. FCM Anderson could hear the children screaming and crying in the background.

18. Some time after their initial removal, [I.B.], [E.B.] and [M.B.] were placed on temporary-in home trial visitation with [Mother] with intensive services in place. FCM Anderson observed the children in [Mother's] home during this period.

19. In July of 2021, FCM Anderson observed an incident where [I.B.] appeared to convulse. [Mother] responded by stating “don't let the demons take you”. When [I.B.] began running around the house, [Mother] responded by asking her what demon had her. [E.B.] then started running around the house as if she was possessed and hung from the second-story railing. When [I.B.] ran out of the house, [Mother] responded by locking her out of the house. When [I.B.] taunted [Mother] from outside the home, [Mother] responded by telling the demons to get out, stated “I rebuke you demon” and asked whether it was [A.B.] who was possessing them. [M.B.] also began yelling in [I.B.'s] direction telling the demons to get out.

20. In August of 2021, FCM Anderson observed an incident where [I.B.] began toddling around the house as if she could not walk. [Mother] responded by asking [I.B.] how old she was. [I.B.] struggled to hold up four fingers and [Mother] informed FCM Anderson that [I.B.] was four years of age. Upon [M.B.] repeatedly running into the room, [Mother] began to rebuke her as well.

21. Ashley Barger, a care coordinator with Choices Coordinated Care Solutions, began working with [I.B.] and [E.B.] in July of 2021. On July 20, 2021, Ms. Barger observed an incident where [I.B.] began behaving as if she were three years of age. Ms. Barger observed [I.B.] to “baby talk”, mumble, slide off the couch and crawl around on the floor. [Mother] informed Ms. Barger that [I.B.] was not in control of her behaviors.

22. Ms. Barger and the team recommended that [I.B.] and [E.B.] engage in therapy, behavioral management services and a psychological evaluation and further recommended that [Mother] would engage in therapy and a mental health assessment.

23. The services recommended by Ms. Barger were not completed. [E.B.] was admitted to the crisis center while in temporary in-home trial visitation and [I.B.] ran away twice in order to avoid participating in the psychological evaluation. Additionally, [Mother] did not allow the children's therapists to meet with them in the home. As such, therapy sessions were conducted with the children at their school. [Mother] sometimes appeared at the school during these sessions.

24. The intensive services put into place by the DCS were not enough to ensure the children's safe placement in [Mother's] care. In September of 2021, [I.B.], [E.B.] and [M.B.] were removed from [Mother] for a second time.

25. At the time of the fact-finding, [I.B.] was placed in a residential facility and the others were placed in foster care.

26. [Mother's] parenting time with the children is currently therapeutically supervised. At [Mother's] request, her parenting time with the children occur[s] separately, one hour per week with each child.

27. The DCS recommends that [I.B.] and [E.B.] engage in [] full-scale psychological evaluations, therapy and work with a behavior clinician, that [A.B.] engage in therapy and that [M.B.] engage in play therapy.

28. The DCS recommends that [Mother] engage in therapy to address her belief that the children are possessed by demons and her attempts to rid the children of said demons, parent education to assist her with learning appropriate ways to deal with the children's behaviors and a full-scale psychological evaluation.

29. [I.B.], [E.B.], [A.B.] and [M.B.'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. The Court acknowledges [Mother's] position that the physical structure, contents and condition of the family home is appropriate. The Court further acknowledges [Mother] has demonstrated to the children and her community that she is a loving and kind individual. However, the DCS has presented ample evidence that [Mother's] older three children are struggling with severe behaviors, that [Mother's] approach to [the] behaviors is to lock the children out of the home, yell at them and abandon them into the care of [DCS]. Additionally, [Mother's] youngest child is beginning to adopt not only these tactics, but the beliefs upon which these are reportedly rooted. [Mother's] failure to address her mental health and the mental health of the children seriously impairs and seriously endangers their physical and mental condition.

30. [I.B.], [E.B.], [A.B.] and [M.B.] need care, treatment, or rehabilitation that the children are not receiving and are unlikely to be provided or accepted without the coercive intervention of the Court. [Mother] has failed to obtain the treatment necessary to address the children's behaviors and did not fully comply with the intensive services designed to assist in maintaining the children safely in her care. The Court does not find [Mother's] past behavior of not addressing her children's mental health needs through services supports her current position that she could obtain services for herself and the family with DCS involvement. As such, the coercive intervention of the Court is necessary to compel her compliance with the recommended treatment.

Id. at 174-179. The court ordered Mother to become engaged in a home-based therapy program and follow all recommendations, complete a parenting assessment and all recommendations developed as a result of the assessment, and complete a psychological evaluation and all recommendations that result from the evaluation.

Discussion

[5] Mother contends “the CHINS determination below was a drastic overreach, and must now be reversed.” Appellant’s Brief at 11. She argues there is no evidence any of the children were abused, neglected, or lacked adequate food, shelter, clothing, medical care, or education. She argues DCS offered no evidence that she suffers from any diagnosed mental condition. She contends that “[a] family’s spiritual belief system is not in itself an endangering or impairment CHINS condition.” *Id.* at 19. She asserts she sought assistance on her own and showed a willingness to address the children’s needs without judicial coercion.

[6] In reviewing a trial court’s determination that a child is in need of services, we do not reweigh the evidence or judge the credibility of witnesses and consider only the evidence which supports the court’s decision and reasonable inferences drawn therefrom. *In re S.D.*, 2 N.E.3d 1283, 1286-1287 (Ind. 2014), *reh’g denied*. We apply the two-tiered standard of whether the evidence supports the findings and whether the findings support the judgment. *Id.* at 1287. We will reverse a CHINS determination only if it was clearly erroneous. *In re D.J.*, 68 N.E.3d 574, 578 (Ind. 2017). A decision is clearly erroneous if the record facts do not support the findings or if it applies the wrong legal standard to properly found facts. *Id.* Ind. Code § 31-34-1-1 provides:

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:

(A) when the parent, guardian, or custodian is financially able to do so; or

(B) due to the failure, refusal, or inability of the parent, guardian, or custodian to seek financial or other reasonable means to do so; 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.

The statute does not require a court to wait until a tragedy occurs to intervene. *In re A.H.*, 913 N.E.2d 303, 306 (Ind. Ct. App. 2009). Rather, a child is a CHINS when he or she is endangered by parental action or inaction. *Id.* The purpose of a CHINS adjudication is to protect children. *Id.*

[7] To the extent Mother does not challenge the trial court's findings of fact, the unchallenged facts stand as proven. *See In re B.R.*, 875 N.E.2d 369, 373 (Ind. Ct. App. 2007) (failure to challenge findings by the trial court resulted in waiver of the argument that the findings were clearly erroneous), *trans. denied*.

[8] The trial court found that FCM Mink responded to a report on June 15, 2021, and observed I.B. convulsing on the couch and indicating that her sister was her master and that Mother refused A.B. entry into the home to use the restroom

and obtain water and believed A.B. was possessing the other children. It found that FCM Mink responded to a report on June 21, 2021, and that Mother called the hotline, requested that I.B. and E.B. be removed, and indicated that A.B. was contacting the children through spirits to tell them to lie to DCS and hit themselves and say that Mother did it. It found FCM Anderson observed that I.B. appeared to convulse, E.B. hung from a second-story railing, I.B. ran out of the house, Mother locked her out, I.B. taunted Mother, and Mother told the demons to get out and asked if A.B. was possessing them.

[9] The court further found that Barger, a care coordinator, and her team recommended that I.B. and E.B. engage in therapy, behavioral management services, and psychological evaluations and that Mother engage in therapy and a mental health assessment, that the recommended services were not completed, that E.B. was admitted to a crisis center and I.B. ran away twice, and that the intensive services put into place by the DCS were not enough to ensure the children's safe placement in Mother's care. It found DCS recommended psychological evaluations and therapy for I.B. and E.B., therapy for A.B. and M.B., and a psychological evaluation, therapy, and parent education for Mother to assist her with addressing the children's behaviors. The court found Mother had failed to obtain the treatment necessary to address the children's behaviors and did not fully comply with intensive services designed to assist her. While the court referred to Mother's beliefs, the focus of its determination was on the children's behaviors and Mother's actions and inactions to address their behaviors and the likelihood that the children would

receive the care they needed without the court's intervention.¹ The court was able to consider the evidence regarding the behaviors of Mother and the children, Mother's interactions with DCS including her participation in services, and Mother's actions, omissions, and ability to provide for and protect the children over time. We conclude the judgment reached by the trial court is not clearly erroneous.

[10] For the foregoing reasons, we affirm the trial court.

[11] Affirmed.

Mathias, J., and Molter, J., concur.

¹ We observe that Ind. Code § 31-34-1-14 provides that, if a parent fails to provide specific medical treatment for a child because of the legitimate and genuine practice of religious beliefs, a rebuttable presumption arises the child is not a CHINS, but the presumption does not prevent a court from ordering, when the health of a child requires, medical services, or apply where the life or health of a child is in serious danger.