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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF B.C., CHILD ALLEGED)
TO BE A CHILD IN NEED OF SERVICES,)

JOHN CAMERON AND)
TIFFANY CAMERON,)

Appellants-Respondents,)

vs.)

No. 84A05-0811-JV-680

INDIANA DEPARTMENT OF)
CHILD SERVICES,)

Appellee-Petitioner.)

APPEAL FROM THE VIGO CIRCUIT COURT
The Honorable David R. Bolk, Judge
The Honorable R. Paulette Stagg, Magistrate
Cause No. 84C01-0804-JC-0393

April 9, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

John (“Father”) and Tiffany (“Mother”) Cameron appeal the juvenile court’s determination that their daughter, B.C., is a child in need of services (CHINS). Specifically, they contend that the evidence is insufficient to support the juvenile court’s determination that B.C. is a CHINS. Second, they contend that the court’s dispositional order does not comply with Indiana Code § 31-34-19-10. Concluding that the evidence is sufficient to support the court’s CHINS determination and that the court’s findings are sufficient pursuant to Indiana Code § 31-34-19-10, we affirm.

Facts and Procedural History

Father and Mother are the parents of B.C., who was born on March 12, 2008. B.C. was born six weeks prematurely and had to remain in the hospital for approximately three weeks after her birth. On March 15, 2008, the Vigo County Department of Child Services (“VCDACS”) received a report that Father had thrown three-day-old B.C. to Mother. DCS Family Case Manager Jacquelin Hofmann investigated and learned that Father had been banned from Union Hospital for abusive language, yelling at Mother and hospital staff, and throwing B.C. She also spoke with Father, who said that he was taking anger management classes, was on medications, and was seeing a psychiatrist. Hoffman assessed the situation and concluded that the family was in need of services. Accordingly, a family team meeting was held, and a safety plan was put in place. According to this plan, before B.C. came home from the hospital, Father was to move out of the family home until he completed anger management counseling, which he had started before the VCDACS’ involvement.

As of April 2, 2008, Father had secured no alternative living arrangements. On April 7, 2008, B.C. was released from the hospital. At that time, Father was still living in the family home. As a result, the VCDCS obtained a Detention Order, and B.C. was taken into protective custody and placed in foster care. Tr. p. 39; Appellant's App. p. 23.

On April 8, 2008, the VCDCS filed a petition alleging that B.C. was a CHINS. Specifically, the VCDCS alleged that B.C. was in need of services pursuant to Indiana Code § 31-34-1-1 in that her physical and mental conditions were seriously endangered due to the neglect of her parents to supply her with the necessary supervision and that her environment was dangerous to both her life and health. In addition, the VCDCS alleged that B.C. needed care, treatment, or rehabilitation that was unlikely to be provided or accepted without the coercive intervention of the court.

After the petition was filed, Father started regularly attending anger management classes and began showing improvement. As such, B.C. was returned to Father and Mother's home on July 1, 2008, on a trial basis.

A fact-finding hearing was held on August 18, 2008. At the hearing, Family Case Manager Hofmann testified that at the time of B.C.'s removal from her parents she did not feel that:

[B.C.] would be safe with [Father] in the home. That I felt that he needed to complete his anger management classes. And then when he came up after his first anger management class and starts yelling at the supervisor, I staffed it with the supervisor and said that I believed that the child should be put in foster care in protective custody at that time because I didn't feel that it would be safe for the baby to even go home with her mom until [Father] got his anger under control.

Tr. p. 32. When asked her opinion about whether Mother would *not* be able to protect B.C., Hofmann said “yes.” *Id.* Janet Lash with Friends of Families also testified at the hearing. She testified in detail about an incident on April 2, 2008, involving Father and Mother in which she described Father as “scary,” “cussing,” “unstable,” “yelling,” and “screaming.” *Id.* at 14, 17. She opined that if Father had another one of those rages, Mother would not be able to protect B.C. from Father. *Id.* at 21, 22. Lash then clarified that Father has since “come a long way” and improved “[a] hundred percent” because he has completed his anger management classes and began taking his medicine on a regular basis. *Id.* at 23, 17. At the conclusion of the CHINS hearing, the juvenile court indicated that it was going to make its decision “based on what the facts and circumstances were at the time this child was removed. Not on what has happened since.” *Id.* at 109. When Father interrupted the juvenile court, the court made the following comment:

If this is a complete turnaround, I would have not wanted to see what was going on before. You are a threatening and imposing man, Mr. Cameron. That is my perception. That’s my job to make those determinations. I think Union Hospital acted reasonably. I think CPS acted reasonably. In fact, they bent over backwards. They were trying not to remove this child from parents. They’ve tried to keep this child with Ms. Cameron. And I can tell you a year ago or two years ago, that would never have happened. That’s the big push now. Don’t remove the children. And that comes from Indianapolis and not necessarily local decisions.

Id. at 110. After another interruption from Father, the court continued:

That push comes from Indianapolis, not necessarily local offices. So I think, based upon the facts and circumstances presented when this case first was initiated, that there is reason to believe that this child, at that time, was indeed a child in need of services. She has been returned to the household. Everyone so far, Mr. Cameron, has said that you have done a turnaround. So I’m going to assume this child is currently safe. I’m not going to say that without any hesitation, but I’ll say it.

Id. Father then said that he was going to appeal and contact the Governor and the media. Thereafter, the juvenile court issued an order determining that B.C. was a CHINS and set the matter for a dispositional hearing.

The dispositional hearing was held on September 2, 2008. Jennifer Hunter, Father and Mother's new Family Case Manager, testified at the hearing. After confirming that B.C. was "okay," Hunter testified that she was recommending basic services for Father and Mother. Sept. 2, 2008, Tr. p. 8.¹ Hunter testified that one of their case conferences had to be rescheduled because Father "wasn't ah, in a good mood that day" and was not cooperating, to which the juvenile court retorted that it "didn't know that was a requirement." *Id.* at 7. Hunter testified that, on a scale of one to ten, she gave Mother a nine with regard to her participation in services. As for Father, Hunter said that Father was doing a little better than a one because he had at least completed his anger management counseling. Following the dispositional hearing, the juvenile court entered the following order:

Matter comes on for a Dispositional Hearing and Periodic Review.
Witnesses are sworn and evidence is heard.

The VCDCS submits into evidence its Exhibit "A" entitled Pre-Dispositional Report and Exhibit "B" entitled Case Plan which are admitted into evidence. The parties are in agreement with the services being offered but do not sign the case plan as father is wishing to appeal the fact-finding decision.

The Court finds that wardship on the child should be established for a period of 6 months with the child to remain in the home of the parents.

The Court now accepts the recommendations as contained in Exhibit "A" and Exhibit "B" and incorporates same into the order by reference.

The Court finds that . . . Mr. Cameron will schedule an appointment with a psychiatrist and follow all recommendations; will take his

¹ There is a transcript for each hearing. The transcript for the fact-finding hearing, held on August 18, 2008, is denoted by "Tr."

medications as prescribed by his physicians, and will attend counseling sessions with Ron Benson of FSA.

Both parents will attend and actively participate in Encouraging Parents once a month, will participate with the First Steps Program and demonstrate an understanding of what they have learned, will attend and actively participate in parenting mentoring classes through the Crisis Pregnancy Center, will focus on parenting skills with Janet Lash of Friends and Family and will cooperate with services being provided by the VCD[CS].

The Court finds that

1. The child's case plan, services and placement meet the special needs and best interests of the child;
2. The VCD[CS] has made reasonable efforts to provide family services.

Appellant's App. p. 8. Thereafter, on December 5, 2008, the juvenile court amended its earlier order to add more information:

In compliance with a prior Court of Appeals of Indiana's decision, the court now expands its dispositional order of September 2, 2008 as follows:

* * * * *

The CHINS petition comes on for a Dispositional Hearing.

A fact finding hearing was held on August 18, 2008 and the court found by a preponderance of evidence that the child was a child in need of services and adjudicated the child accordingly.

Witnesses are sworn and evidence is heard. The court, after reviewing the predispositional report and case plan and after hearing statements and evidence presented to the court regarding the disposition of these cases finds:

The needs of the child for care, treatment or rehabilitation are . . . [t]o continue in placement with her parents following her return to that household on July 1, 2008. [B.C.] will continue to be treated for reflux.

Participation by the parents in the plan of care for the child is necessary as the current plan is to maintain reunification by way of a trial home placement.

Reasonable efforts were made to prevent the child's initial removal in that the parents agreed to the imposition of a safety plan, following a family team meeting, in that the child would be discharged from the hospital to mother's home before which father would remove himself from the home and participate in and complete an anger management program. Father failed to leave the residence and had not completed an anger management program.

Family services offered by the Department for both parents are attendance at and participation in Encouraging Parents one time monthly, participation in and understanding of First Steps, attendance at and active participation in parenting mentoring classes through the Crisis Pregnancy Center, learning of parenting skills through Friends of Families, and to Cooperate with VCDCS and service providers. Mr. Cameron will schedule an appointment with a psychiatrist and follow all recommendations, comply with doctor's directives concerning medications as prescribed, and will attend counseling sessions with Family Services Association. The parents will additionally contact the Department speedily with any change in household composition and change of address, telephone number or employment. They will actively participate in family team meetings, sign releases of information with providers so that the DCS may maintain up to date information, allow announced and unannounced visits by DCS and service providers, and make and keep regularly scheduled appointments for [B.C.'s] medical care and provide for any emergency medical treatment if necessary.

This disposition is designed to protect this newborn child's safety while in the company of an extremely angry and paranoid father who has managed to have himself banned from three organizations in Terre Haute, namely Union Hospital, Ivy Tech and the Department of Child Services, because of his chaotic and belligerent behavior. It is believed that the mother, who presents herself as a very quiet and passive individual, may not have been able to provide on her own for her child's safety without the intervention and assistance of the Department and this court.

* * * * *

The court finds that the child's case plan, services and placement meet the special needs and best interests of the child and that the Department is and has made reasonable efforts to provide family services.

This case is set for a permanency hearing on March 31, 2009 at 9:30 a.m.

Id. at 6-7 (formatting altered). Father and Mother now appeal.

Discussion and Decision

Father and Mother raise two issues on appeal. First, they contend that the evidence is insufficient to support the juvenile court's determination that B.C. is a CHINS. Second, they contend that the court's dispositional order does not comply with Indiana Code § 31-34-19-10.

I. CHINS Disposition

Father and Mother contend that the evidence is insufficient to support the juvenile court's determination that B.C. is a CHINS.² Indiana Code § 31-34-1-1 governs a CHINS determination and 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; 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 DCS has the burden of proving by a preponderance of the evidence that a child is in need of services. *In re T.S.*, 881 N.E.2d 1110, 1112 (Ind. Ct. App. 2008). When we review the trial court's CHINS determination, we consider only the evidence most favorable to the judgment and the reasonable inferences therefrom. *Id.* We will neither reweigh the evidence nor reassess the credibility of the witnesses. *Id.*

The evidence shows that the VCDCS received a report that Father had thrown a newborn, premature baby and had been banned from the hospital. After investigating, the VCDCS learned that Father had extreme, documented anger issues and was inconsistent in taking his medication. The parents agreed to work with the VCDCS to ensure that B.C. would be safe upon her release from the hospital. Near the end of March 2008, Father and Mother agreed that Father would move out of the family home and complete

² We acknowledge that Father and Mother argue that the VCDCS failed to prove that B.C. is a CHINS as to each of them separately. However, there is ample evidence that B.C.'s status is a CHINS as to Father's actions and Mother's inability to protect B.C. from Father's outbursts.

anger management counseling. However, they failed to follow the plan as set out in the family team meeting. In fact, on April 2, 2008, Father, who had yet to move out of the family home, had an outburst in the presence of a service provider, Janet Lash from Friends of Families, during which she felt fearful for her own safety. And when B.C. was released from the hospital on April 7, 2008, Father was *still* in the family home. According to Family Case Manager Hofmann, she did not feel that B.C. would be safe with Mother until Father got his anger problems under control because she did not believe that Mother could adequately protect B.C. Because, by all accounts, the family's progress was backwards, the VCDCS obtained a detention order to remove B.C. from her parents. The following day, the VCDCS filed a CHINS petition.

Based on this evidence, we conclude that the VCDCS has proved by a preponderance of the evidence that B.C.'s physical or mental condition was seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of B.C.'s parents to supply her with necessary supervision and that she needed care, treatment, or rehabilitation that was unlikely to be provided or accepted without the coercive intervention of the court.

As for the parents' argument that this situation could have been handled outside the CHINS arena, we note that up until B.C.'s removal, the VCDCS had done all that it could to prevent the filing of a CHINS petition. It had entered into an agreement with Father and Mother; however, they did not hold up their end of the bargain. Father did not move out of the family home (despite several reminders by the VCDCS) or make a serious effort toward completing his anger management counseling (in fact, he switched

providers twice and completed only one class), and the VCDCS was rightfully convinced that Mother could not adequately protect B.C. without Father first getting help. In addition, Father engaged in erratic behavior with one of his service providers, Lash, who was “fearful for [her] own safety.” Tr. p. 21. It was not until the detention order for B.C. and filing of the CHINS petition that the parents were serious about complying. It is thus apparent that the coercive intervention of the court was required and has even been a success, as at the time of the CHINS hearing B.C. was back in the care of her parents.

II. Dispositional Order

Father and Mother contend that the juvenile court’s findings in its December 5, 2008, dispositional order are insufficient. Indiana Code § 31-34-19-10 governs this issue and provides:

(a) The juvenile court shall accompany the court’s dispositional decree with written findings and conclusions upon the record concerning the following:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) Efforts made, if the child is a child in need of services, to:
 - (A) prevent the child’s removal from; or
 - (B) reunite the child with;the child’s parent, guardian, or custodian in accordance with federal law.
- (4) Family services that were offered and provided to:
 - (A) a child in need of services; or
 - (B) the child’s parent, guardian, or custodian;in accordance with federal law.
- (5) The court’s reasons for the disposition.

(b) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court’s dispositional decree.

Specifically, Father and Mother argue that the juvenile court did not make adequate findings regarding the needs of B.C. for care, treatment, rehabilitation, or placement ((a)(1)), the efforts made to prevent B.C.'s removal from Mother ((a)(3)(A)), and the court's reason for disposition against Mother ((a)(5)). As can be seen from the juvenile court's December 5, 2008, order, the court made findings on each of these factors. That is, the court found that B.C. was to continue in placement with Father and Mother. As for the efforts made to prevent B.C.'s removal from Mother, the juvenile court found that Father and Mother entered into an agreement whereby Father would leave the family home before B.C.'s release from the hospital, which Father failed to do. Because Mother was a party to the agreement, she was at fault, too. Finally, the juvenile court was clear regarding its disposition for Mother: "It is believed that the mother, who presents herself as a very quiet and passive individual, may not have been able to provide on her own for her child's safety without the intervention and assistance of the Department and this court." Appellant's App. p. 7. Thus, the court felt that the CHINS proceedings were necessary to protect B.C. because, after all, the DCS does not have to wait until a tragedy occurs to take action. By all accounts, the CHINS proceedings have been a great success. B.C. has been returned to her parents, B.C. is doing well, and Father has made a complete turnaround. The juvenile court's findings are sufficient pursuant to Indiana Code § 31-34-19-10.³

³ Father and Mother challenge several of the juvenile court's other findings. However, we find that each of the findings either are unnecessary to the ultimate outcome of the appeal or are supported by the evidence. For example, the parents argue that the trial court found that Father had not completed anger management counseling. The trial court did not find this. Rather, the trial court found that at the time of B.C.'s removal, Father had not yet completed anger management counseling. The record reflects that Father has now completed a sixteen-week anger management course. The parents also challenge the

Affirmed.

NAJAM, J., and FRIEDLANDER, J., concur.

trial court's finding that Father was banned from the three organizations because of his "chaotic and belligerent behavior." The record also supports this finding. *See, e.g.*, Tr. p. 21, 57-61.