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IN THE
COURT OF APPEALS OF INDIANA

In Re the Matter of N.E. and
F.C.

C.E. (Mother),

Appellant-Respondent,

v.

Indiana Department of Child
Services,

Appellee-Petitioner.

October 24, 2022

Court of Appeals Case No.
22A-JC-405

Appeal from the Vigo Superior
Court

The Honorable Sarah K. Mullican,
Judge

The Honorable Daniel W. Kelly,
Magistrate

Trial Court Cause No.
84C01-2110-JC-1130

Riley, Judge.

STATEMENT OF THE CASE

- [1] Appellants-Respondents, C.E. (Mother) and S.E. (Father S.E.), appeal the trial court's adjudication of N.E. as a Child in Need of Services (CHINS), and Mother and L.T. (Father L.T.) appeal the trial court's adjudication of F.C. as a CHINS.
- [2] We reverse.

ISSUE

- [3] In this consolidated appeal, Mother, Father S.E., and Father L.T. present this court with three issues, only one of which we find dispositive and which we restate as: Whether the trial court's adjudication of N.E. and F.C. as CHINS was clearly erroneous.

FACTS AND PROCEDURAL HISTORY

- [4] Mother is the custodial parent of N.E., born on January 26, 2021, and F.C., born on January 14, 2015 (collectively, Children). Father S.E. is the biological parent of N.E. and Father L.T. is the biological parent of F.C. Mother and Father S.E. are married and live together in Father S.E.'s house where he had been living for the past eight years. At the time of the incident giving rise to the Department of Child Services' (DCS) intervention, the couple was not residing at the house because they had no power but instead were staying with a friend.

Mother and Father S.E.

[5] After Mother gave birth to N.E., she suffered from postpartum depression. On October 13, 2021, Mother, Father S.E., and N.E. had returned to the house to retrieve some items for N.E., who was eight months old. The next-door neighbor, Patricia Ware (Ware), noticed Mother and Father S.E. outside having a “verbal disagreement.” (Transcript Vol. II, p. 163). Mother was walking back and forth, not making any sense, and talking about “demons” and “crazy stuff happening at the house.” (Tr. Vol. II, pp. 166-67). Father S.E. approached Ware and informed her that he feared that Mother was having a “psychotic break” and that he needed to get her help. (Tr. Vol. II, p. 164). Ware offered to take care of N.E. while Father S.E. took Mother to the hospital. Ware was known to Mother and Father S.E. and had watched their children before. When Mother and Father S.E. departed, they did not provide Ware with food or clothing for N.E. Father drove to Union Hospital, but Mother did not want to go inside because she did not have insurance at the time, having changed her name when she married Father S.E. Father S.E. arranged for a nurse to speak to her in the parking lot.

[6] Later that evening, a woman claiming to be Mother’s sister (Aunt) arrived at Ware’s house, insisting on taking take N.E. with her. Aunt claimed that Mother had asked her to collect N.E. Because Ware was not comfortable handing N.E. over to Aunt, she called the police. After the police officers arrived, they went to Father S.E.’s house to see whether the family had returned. When the officers entered the house through the open front door, they were struck by an overwhelming, pungent odor of fecal matter that filled

the downstairs toilet. The officers noticed that the home was without electricity and was extremely cluttered.

- [7] Even though the officers confirmed Aunt’s identity, they did not release N.E. to her but instead notified DCS. DCS’s Family Case Manager (FCM) arrived at Ware’s residence around 2:00 a.m. FCM became concerned when she noticed N.E.’s clothing and blanket were saturated in urine. N.E. had a number of marks and abrasions, but an investigation at Riley Hospital did not reveal any physical abuse. Because FCM was unable to ascertain Mother’s and Father S.E.’s whereabouts, FCM removed N.E. and placed her in foster care. The following day, October 14, 2021, DCS filed a petition alleging N.E. to be a CHINS due to the “argument/domestic violence incident”¹ between Mother and Father S.E.; Mother’s and Father S.E.’s whereabouts were unknown, and the inadequacy of the family home. (Appellants’ App. Vol. II, p. 28).

Mother and Father L.T.

- [8] During the first six years of F.C.’s life, Father L.T. lived outside of Indiana. In 2020, Father L.T. moved to Vigo County, Indiana, where he purchased property to store solar equipment for his limited liability company. He constructed a shed on the property that he used as a workspace and as a storage facility for his equipment. In 2021, Father L.T. commenced a paternity action,

¹ While DCS insists on characterizing the incident as a domestic violence situation, the evidence is less clear with even the trial court referring to the incident as “an argument out in the street.” (Appellants’ App. Vol. III, p. 21).

seeking sole custody of F.C. after DCS investigated a report that Mother's home was not suitable for F.C. The paternity court denied Father L.T.'s request and ordered that Father L.T.'s initial parenting time be supervised by paternal grandmother.

[9] On October 26, 2021, Mother dropped F.C. off at the babysitter's house. Sometime that day, paternal grandmother took F.C. from the babysitter's house without Mother's permission. After the babysitter informed Mother, Mother and Father L.T. became concerned because paternal grandmother had a sex offender staying at her home. Mother and Father F.C. contacted the police to report that paternal grandmother had taken F.C. The officers contacted DCS. DCS arrived at paternal grandmother's home and confirmed that the man staying at the house had a prior sexual criminal history and could not be around F.C. Prior to releasing F.C. to Mother, DCS requested Mother to take a drug screen. Mother refused and DCS detained F.C.

[10] The following day, Mother filed a petition in the paternity action, requesting that Father L.T.'s parenting time with F.C. no longer be supervised. That same day, DCS filed a petition alleging F.C. to be a CHINS due to Mother's intoxication and Father L.T.'s homelessness. A combined initial and detention hearing was held on October 27, 2021, at which Father L.T. appeared. Father L.T. explained that he had arranged for him and F.C. to stay in a family room at the Lighthouse Mission in Terre Haute. He also provided the court with receipts showing that he had paid for F.C.'s gymnastic lessons and clothing. Rather than releasing F.C. to Father L.T.'s care, the trial court authorized DCS

to investigate Lighthouse Mission for its suitability as housing for F.C., and if found suitable, to place F.C. with Father L.T. without any need to return to court. On November 4, 2021, Father L.T., acting as his own attorney, filed a request for an emergency hearing as DCS had yet to verify his living situation and grant him custody of F.C. The trial court did not respond to Father L.T.'s petition.

Combined Factfinding Hearing

- [11] On December 7 and 10, 2021, the trial court conducted a factfinding hearing with respect to Children. FCM testified that after Children's removal, she had reached out to Mother to schedule visits and to perform drug screens. Mother refused to be screened and only participated in two visits with N.E. Father S.E. participated in one visit with N.E. and also refused to participate in drug screens. FCM testified that Father L.T. attended all scheduled visits with F.C., while Mother only participated in a visit just before the factfinding hearing. FCM informed the trial court that DCS did not know where Father L.T. actually lived and that his shed in Vigo County was not habitable. Without pointing to any evidence, FCM also advised the trial court that she did not know whether Father L.T. was using drugs or experiencing mental health issues.
- [12] On December 13, 2021, the trial court adjudicated Children to be CHINS. In its findings, the trial court found, in pertinent part, that

The evidence that [Mother and Father S.E.'s] activities on October 13-14 did not resolve Mother's mental health issues was buttressed by the parties' appearance at the detention hearing on October 14, 2021. Mother was still in highly emotional state, while [Father S.E.], who on all previous appearances in this court appeared sober, was himself unusually agitated and looked as though he could have been under the influence of some sort of drug. [Father S.E.] was clearly in desperate straits to try to help his wife, but he seemed even more desperate to insulate every aspect of their lives from the scrutiny of DCS and the court. At the detention hearing, [Mother and Father S.E.] agreed to submit to a drug screen to show that they were not impaired and the court therefore ordered that they do so. However, they both failed to submit to drug screens as ordered.

At the fact-finding hearing, [Father S.E.] pointed out that in an assessment in February 2021, they submitted to screens and were clean. However, the screens from seven months earlier would not dispel the court's concerns about the parties' present state of sobriety. By their appearance at the detention hearing, the declining state of their housing and overall lives and their adamant refusal to submit to drug screens when ordered, the court was left wondering whether Mother's mental health was the problem or whether the parties had been using illegal drugs that caused or contributed to all of these conditions. In either case, the court finds that CHINS circumstances exist and that the coercive intervention of the court is necessary.

* * * *

At the time DCS filed the CHINS proceedings on [N.E.] and [F.C.], Mother was the custodial parent of both. [Father L.T.] could not protect his daughter from the circumstances in her [M]other's home even if there were no issues with him. However, the evidence indicated that [Father L.T.] did not have adequate housing for [F.C.] even if he had had custody. He

testified that he believes he can get his child and himself housed at the Light House Mission, but he himself is not living there yet. The court finds that DCS has established the allegations in its CHINS petitions by a preponderance of the evidence, and adjudicates the [C]hildren to be Children In Need of Services[.]

Finally, as the court mentioned at the beginning of this order, the three parents involved in these cases all clearly possess the attributes to be fine parents. But the circumstances that led to the filing of these cases require that the lights be switched on to illuminate the darkness regarding the parties' mental health, possible substance abuse, possible domestic violence and housing issues. With cooperation from the parents, the court is confident these particular [P]arents can work to get their [C]hildren back home quickly, provided they show that these concerns are being addressed.

(Appellants' App. Vol. III, pp. 21-22).

- [13] On January 7, 2022, the trial court issued a combined dispositional and parental participation order, which required Mother, Father S.E., and Father L.T. to submit to substance abuse assessment, submit to random drug screens, complete a psychological evaluation, meet with medical/psychiatric personnel and take all prescribed medications, meet their own and Children's medical and mental health needs, not commit any acts of domestic violence on anyone including Children, complete a domestic violence assessment, and attend scheduled visitation with Children.
- [14] Mother, Father S.E, and Father L.T. now appeal. Additional facts will be provided if necessary.

DISCUSSION AND DECISION

- [15] Mother, Father S.E., and Father L.T. challenge the sufficiency of the evidence supporting the trial court’s adjudication of Children as CHINS. In reaching its determination, the trial court should consider the family’s condition not just when the case was filed, but also when it was heard. *In re S.D.*, 2 N.E.3d 1283, 1290 (Ind. 2014). A CHINS adjudication cannot be based solely on conditions that have ceased to exist. *In re S.A.*, 15 N.E.3d 602, 611 (Ind. Ct. App. 2014), *trans. denied*. The adjudication must be based on the evidence presented in court and not on the allegations in the pleadings. *Maybaum v. Putnam Cnty. O.F.C.*, 723 N.E.2d 951, 954 (Ind. Ct. App. 2000). In reviewing a CHINS determination, we do not reweigh evidence or assess witness credibility. *Matter of N.C.*, 72 N.E.3d 519, 523 (Ind. Ct. App. 2017). We consider only the evidence in favor of the trial court’s judgment, along with any reasonable inferences arising therefrom. *Id.* DCS carries the burden of establishing that a child is a CHINS by a preponderance of the evidence. I.C. § 31-34-12-3.
- [16] In *In re S.D.*, 2 N.E.3d at 1287-88 (internal citations omitted), our supreme court explained the three elements required to prove that a child is a CHINS under Indiana Code section 31-34-1-1, as alleged in this case:

Not every endangered child is a child in need of services, permitting the State’s *parens patriae* intrusion into the ordinarily private sphere of the family. Rather, a CHINS adjudication under Indiana Code section 31-34-1-1 (often called a “CHINS 1,” in reference to the section number) requires three basic elements: that the parent’s actions or inactions have seriously endangered the child, that the child’s needs are unmet, and (perhaps most

critically) that those needs are unlikely to be met without State coercion. In full, the statute 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.

I.C. § 31-34-1-1.² That final element guards against unwarranted State interference in family life, reserving that intrusion for families ‘where parents lack the ability to provide for their children,’ not merely where they ‘encounter difficulty in meeting a child’s needs.’

[17] Accordingly, DCS is permitted to intervene in a family’s life when the family cannot meet the child’s needs without intervention of the court. *Id.* at 1286.

When determining whether coercive intervention is necessary, “the question is whether the parents must be coerced into providing or accepting necessary

² Effective July 1, 2019, Indiana Code section 31-34-1-1 was amended to include that a child is a CHINS if the child’s physical or mental condition is seriously endangered by the parent’s actions “(1)(A) when the parent, guardian, or custodian is financially able to do so; or (1)(B) due to the failure, refusal, or inability of the parent, guardian, or custodian to seek financial or other reasonable means to do so.” Those provisions are not at issue in this appeal.

treatment for their child.” *Matter of E.K.*, 83 N.E.3d 1256, 1262 (Ind. Ct. App. 2017). The same evidence used by the court to determine that a parent’s acts or omissions injured or endangered a child may also support that coercive intervention is necessary to safeguard the child. *See, e.g., In re A.K.*, 924 N.E.2d 212, 221 (Ind. Ct. App. 2010) (same evidence used to establish more than one element of the parental rights intervention statute), *trans. denied*; *In re V.C.*, 867 N.E.2d 167, 179 (Ind. Ct. App. 2007) (same evidence supported CHINS and custody modification).

I. N.E.’s CHINS Adjudication

[18] DCS filed its petition to adjudicate N.E. as a CHINS based on Mother’s and Father S.E.’s argument stemming from Mother’s mental health breakdown due to her postpartum depression and the inadequacy of the family home.

[19] Indiana law is clear that a parent’s mental illness, without more, is not sufficient to support a CHINS determination. In *In re E.Y.*, 93 N.E.3d 1141 (Ind. Ct. App. 2018), we reversed the trial court’s CHINS determination where DCS had not shown any harm or danger to the child from mother’s obvious mental illness. As we observed,

it is well settled that ‘the focus of a CHINS adjudication is on the condition of the child alone.’ And here, DCS presented no evidence relevant to the impact, if any, of Mother’s mental illness on Child’s condition.[] Indeed, the evidence does not support a reasonable inference that, at the time of the fact-finding hearing, Mother’s mental health endangered Child at all, let alone that her mental health seriously endangered him . . . As our [s]upreme

[c]ourt has recognized, ‘it is an unfortunate instance for any child to experience the ‘emotional turmoil’ and difficulties of living with a parent suffering from mental illness[.]’ But that does not mean that a parent’s mental illness necessarily presents a serious danger to a child.

Id. at 1146 (internal citations omitted). This was acknowledged by the trial court in its Order, stating that “[t]he fact that [M]other is suffering from postpartum depression and that she became involved in an argument over whether she needed medical help or not would certainly not, by itself, justify the state’s intrusion into the family.” (Appellant’s App. Vol. II, p. 21).

[20] DCS had the burden to prove that N.E. was actually and seriously endangered as a result of Mother’s mental illness. Other than the one occasion on October 13, 2021, when Mother and Father S.E. left N.E. in the care of a neighbor, who had watched their children in the past, to actively seek medical help for Mother’s breakdown, DCS did not present evidence that N.E. had been impacted in any way by Mother’s mental illness, let alone was placed in serious danger. It is well-settled that “a CHINS adjudication may not be based solely on conditions that no longer exist.” *See In re M.M.*, 118 N.E.3d 70, 74 (Ind. Ct. App. 2019). Thus, DCS was required to present evidence of conditions bearing on N.E.’s well-being since October 13, 2021, which it did not do. At no point did DCS present evidence that Mother was still suffering from a mental health crisis or had refused to seek help and that Mother’s postpartum depression actually and seriously endangered N.E.

[21] Although the trial court in its Order noted the inadequacy of the family's home on October 13, 2021, at the factfinding hearing of December 7 and 10, 2021, Mother and Father S.E. presented uncontroverted evidence that the home was safe and the utilities were working without the coercive intervention of the court or guidance by DCS.

[22] In addition, Mother and Father S.E. also challenge the trial court's "concerns about the parties' present state of sobriety." (Appellants' App. Vol. III, p. 21). The trial court "wonder[ed] whether Mother's mental health was the problem or whether the parties had been using illegal drugs that caused or contributed to all of these conditions." (Appellants' App. Vol. III, p. 21). However, DCS provided no evidence resolving the trial court's question of potential drug use. It was the State's burden to prove drug use by one or both Parents and that this drug use seriously endangered N.E. *See Ad.M. v. Ind. Dep't of Child Servs.*, 103 N.E.3d 709, 714 (Ind. Ct. App. 2018) (children were not CHINS despite Mother's history of sporadic marijuana use because there was no evidence that, at any point and time, any of the children were endangered, that the parents had ever used drugs in the presence of the children, or that there was ever an occasion in which the parents were impaired by substance abuse while the children were in their care). DCS failed on both counts. At best, the trial court here was left only with questions, inchoate concerns, and speculation. *See In re D.H.*, 859 N.E.2d 737, 744 (Ind. Ct. App. 2007) (holding that questions, inchoate concerns, and speculation cannot support a finding that the child was endangered.). Although the trial court found that "[a]t the detention hearing,

[Mother and Father S.E] agreed to submit to drug screens to show that they were not impaired and the court therefore ordered that they do so,” this finding is not supported by the evidence. (Appellants’ App. Vol. III, p. 21). During the factfinding hearing, conflicting testimony was presented as to whether Mother and Father S.E. had been ordered to submit to drug screens at the detention hearing. The trial court noted that it would normally not order a drug “screen to make the parent be a witness basically against themselves if the child is not [going to] be endangered due to the placement.” (Tr. Vol. II, p. 144). Trying to recollect the events of the detention hearing, the trial court suggested “my recollection was that he may have been indicating he had no drug issue and I may have been trying to say, well, if that’s the case, if you screen that would remove that concern.” (Tr. Vol. II, p. 144). A suggestion to participate in a drug screen to dispel a concern is not equivalent to an order to submit to drug screens.

[23] The proper focus here is on the condition of N.E., not Mother’s or Father S.E.’s conduct. *See Matter of B.P.*, 190 N.E.3d 995, 1002 (Ind. Ct. App. 2022) (reversing a CHINS petition where mother suffered from mental illness, left her children alone to pay her electricity bill when she was arrested due to her involvement in a traffic accident, and had a defiant attitude towards DCS and the court. We concluded that DCS failed to prove that the children were actually and seriously endangered as a result of the mother’s mental illness because other than the one occasion when the mother was arrested and jailed and the children were left without adult supervision overnight, DCS did not

present evidence that the children had been impacted in any way by the mother's mental illness.) DCS has not presented evidence that N.E. has been harmed or endangered because of Mother's mental health or inadequacy of the family home. While Mother had a mental breakdown and the family home was found to be inadequate on October 13, 2021, these conditions were voluntarily and without court coercion remedied by the parties, and therefore they are insufficient to support a CHINS determination. *See In re M.M.*, 118 N.E.3d at 74.

II. F.C.'s CHINS Adjudication

[24] On October 27, 2021, DCS removed F.C. from Mother's care due to Mother's intoxication and Father L.T.'s homelessness. During the factfinding hearing, FCM testified that the coercive intervention of the court was necessary to "try to get the parents [] on board and do services to evaluate to make sure that there is not a drug issue or that the home is appropriate for this child to be living in." (Tr. Vol. II, p. 74).

[25] The record reflects that the only reason DCS became involved with F.C. was because Mother and Father L.T. were concerned for F.C.'s safety when she was with her paternal grandmother, who had a sex offender living in her house. When paternal grandmother refused to release F.C. to Mother and Father L.T., the police officers contacted DCS. As Father L.T. was not the custodial parent, F.C. could only be released to Mother. However, because Mother declined to take a drug screen, DCS detained F.C.

[26] Although DCS's CHINS petition alleges that "Mother appeared to be impaired and under the influence of intoxicating substances," the only evidence in the record to support this allegation of intoxication is FCM's testimony that Mother "was talking rapidly. She was sitting on the sidewalk." (Appellants' App. Vol. II p. 240). Even if we were persuaded that talking rapidly is sufficient to establish intoxication, DCS failed to present any evidence to support that Mother has an active and ongoing substance problem.

[27] Likewise, Father L.T.'s actions or inactions did not seriously endanger F.C.'s physical or mental condition. At the time of F.C.'s removal, Father L.T. was the noncustodial parent exercising supervised visitation while he re-established a bond with F.C. Although F.C. was not released to Father L.T. because he lacked appropriate housing, by the detention hearing the following day, Father L.T. informed the trial court that he had arranged for a family room at Lighthouse Mission for his and F.C.'s use. He also provided the court with receipts showing that he had paid for F.C.'s gymnastic lessons and clothing. Rather than releasing F.C. to Father L.T.'s care, the trial court authorized DCS to investigate Lighthouse Mission for its suitability for F.C., and if found suitable to place F.C. with Father L.T. without any need to return to court. By the time of the factfinding hearing on December 7 and 10, 2021, DCS had yet to investigate Lighthouse Mission despite the trial court's explicit authorization. FCM explained that she "can't check to see if [Father L.T.] got a home for [F.C.] when he doesn't have her." (Tr. Vol. II, p. 87). DCS's position places Father L.T. in an impossible situation: Father L.T. cannot be reunited with

F.C. unless he has an appropriate home, yet DCS is unwilling to consider the suitability of Father L.T.'s proposed home unless he has F.C.

[28] Again, the proper focus here is on the condition of F.C., not Mother's or Father L.T.'s conduct. *See In re N.C.*, 72 N.E.3d at 524. Even if we are persuaded by DCS's allegation of Mother's intoxication on this one occasion, DCS did not present evidence that F.C. had been impacted in any way, let alone seriously endangered. As we stated before, "a CHINS adjudication may not be based solely on conditions that no longer exist." *See In re M.M.*, 118 N.E.3d at 74. Similarly, Father L.T., without any coercive intervention by the court or DCS, arranged for adequate housing for himself and F.C. Accordingly, the conditions that led to F.C.'s detention were voluntarily and without court coercion remedied by the parties, and therefore they are insufficient evidence to support a CHINS determination. *See Id.*

[29] The evidence does not support a finding that Parents are either unwilling or unable to care for Children. We agree with the trial court's statement that "the three parents involved in these cases all clearly possess the attributes to be fine parents." (Appellants' App. Vol. III, p. 21) But there is no evidence that the conditions that led to the removal of Children have continued or require the court's intervention to be rectified. While the evidence showed that Mother suffered a mental health crisis, the family home was inadequate, and Father L.T. was homeless, the record also reflects that Parents sought medical help voluntarily and remedied the housing situation. If new facts arise that would support a CHINS determination in the future, a more stringent and coercive

intervention may be required. But regardless as to what happens, DCS must prove “three basic elements,” namely, that Parents’ actions or inactions have seriously endangered Children, that Children’s needs are unmet, and that those needs are unlikely to be met without State coercion. *See In re S.D.*, 2 N.E.3d at 1287. Under the facts before us, these basic elements have not been met and we hold that the trial court clearly erred when it found Children to be CHINS.

CONCLUSION

[30] Based on the foregoing, we conclude that the trial court’s adjudication of N.E. and F.C. as CHINS was clearly erroneous.

[31] Reversed.

[32] Bailey, J. concurs

[33] Vaidik, J. dissents with separate opinion

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C.E. (Mother),
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Court of Appeals Case No.
22A-JC-405

Vaidik, Judge, dissenting.

[34] I respectfully dissent from the majority’s decision to reverse the trial court’s determination that N.E. and F.C. (“the children”) are CHINS.

[35] The trial court found the children to be CHINS under Indiana Code section 31-34-1-1, which “requires three basic elements: that the parent’s actions or inactions have seriously endangered the child, that the child’s needs are unmet, and (perhaps most critically) that those needs are unlikely to be met without State coercion.” *In re S.D.*, 2 N.E.3d 1283, 1287 (Ind. 2014), *reh’g denied*.

“When reviewing a CHINS adjudication, we do not reweigh evidence or judge

witness credibility and will reverse a determination only if the decision was clearly erroneous.” *In re Eq. W.*, 124 N.E.3d 1201, 1208 (Ind. 2019) (quotation omitted).

[36] Given the deference afforded to trial courts in family-law matters, I would affirm the trial court’s determination that the children are CHINS. The record shows that the children were removed from the parents in October 2021. At the time of removal, Mother was experiencing a “psychotic break,” was “erratic,” and claimed there were “demons” in her and Father S.E.’s house. Tr. Vol. II pp. 164, 176. Mother and Father S.E. left eight-month-old N.E.—who was soaked in “urine” and had “marks, scrapes and abrasions that were unusual for a child of that age”—in the care of a neighbor so that they could get mental-health treatment for Mother at a hospital. *Id.* at 167; Appellants’ Consolidated App. Vol. III p. 21. However, they didn’t leave any supplies for N.E. with the neighbor. Although Mother and Father S.E. were gone for about eight hours, they did not end up getting any treatment for Mother at the hospital. In addition, Mother and Father S.E.’s house did not have electricity or a working toilet and was “filthy” and “extremely cluttered.” Appellants’ Consolidated App. Vol. III p. 20. And Father L.T., who had recently moved back to Indiana and had only supervised visits with F.C., was homeless.

[37] At the detention hearing for N.E., the trial court observed that Mother was in a “highly emotional state” and Father S.E. was “unusually agitated.” *Id.* at 21. The court “order[ed] [Mother and Father S.E.] to drug screen today.” Appellants’ Consolidated App. Vol. II p. 40. Mother and Father S.E., however,

did not drug screen that day or any other day. At the detention hearing for F.C., Father L.T. said he was looking into staying at a homeless shelter but wasn't living there yet. The children were removed from the parents. N.E. was placed in foster care, and F.C. was placed with a relative.

[38] At the time of the fact-finding hearing in December 2021, Mother had been prescribed medication but wasn't taking it: "I honestly didn't even want to be put on medication, because I didn't want it to be used against me going to Court." Tr. Vol. II p. 191 (cleaned up). Mother and Father S.E. had been awarded two visits a week with N.E. Father S.E. didn't attend any visits, and Mother attended only one. *See id.* at 63. Mother and Father S.E. were uncooperative with DCS and thus DCS could not determine whether they had drug issues or it was safe to place N.E. back in their care. *See id.* at 65. In addition, Mother and Father L.T. had been awarded one visit a week with F.C. As with N.E., Mother attended only one visit with F.C. Although Father L.T. did not miss any visits, he still didn't have suitable housing and was living in a "shack" or "shed" with no electricity or running water. *Id.* at 67, 85.

[39] Keeping in mind that the purpose of a CHINS proceeding is to protect children and not punish parents, *see In re K.D.*, 962 N.E.2d 1249, 1258 (Ind. 2012), I believe that DCS has met its burden of proving the children are CHINS. That is, I believe DCS has proven that the parents' actions and inactions have seriously endangered the children, that the children's needs are unmet, and that their needs are unlikely to be met without State coercion. The record shows that Mother had untreated mental-health issues that impacted her ability to care for

her children, it was unknown whether Mother and Father S.E. were abusing drugs (because they hadn't tested), and all parents had housing issues. As the trial court found, the parents have the potential to be good parents; however, they need the coercive intervention of the court to supply the children with a safe home.³ Because I believe that DCS has met its burden of proving the children are CHINS and that the other issues raised on appeal do not have merit, I would affirm the trial court.

³ Since the children were found to be CHINS, the progress reports show that Mother and Father S.E. haven't participated in visits or services. In August 2022, DCS changed N.E.'s permanency plan to a concurrent plan of adoption. A review hearing is set for January 2023. In September 2022, F.C. was placed with Father L.T. on a trial home visit. A review hearing is set for December 2022.