

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

In the Matter of:
C.R., E.R., S.R., M.R. and Z.R. (Minor Children),
Children in Need of Services

and

Al.R (Father) and Am.R. (Mother),
Appellants-Respondents

v.

Indiana Department of Child Services,
Appellee-Petitioner



February 21, 2024

Court of Appeals Case No.
23A-JC-2461

Appeal from the Lawrence Circuit Court
The Honorable Nathan J. Nikirk, Judge
The Honorable Anah H. Gouty, Juvenile Referee

Trial Court Cause Nos.
47C01-2304-JC-181
47C01-2304-JC-182
47C01-2304-JC-183
47C01-2304-JC-184
47C01-2304-JC-185

Memorandum Decision by Judge Bailey
Judges Crone and Pyle concur.

Bailey, Judge.

Case Summary

[1] Am.R. (“Mother”) and Al.R. (“Father”) (collectively, “Parents”) appeal the adjudication of their five children as Children in Need of Services (“CHINS”), upon the petition of the Lawrence County Department of Child Services (“DCS”). We affirm.

Issues

- [2] Parents present three issues for review:
- I. Whether the findings of fact and conclusions thereon supporting the adjudication are inadequate to permit meaningful appellate review;
 - II. Whether the adjudication of the children as CHINS due to educational neglect is clearly erroneous because it lacks sufficient evidentiary support; and

- III. Whether the dispositional order fails to comply with the statutory requirement that the court state its reasons for the disposition.

Facts and Procedural History

- [3] Parents have eight children, five of whom are minors: M.R. (born in 2008); Z.R. (born in 2010); C.R. (born in 2011); E.R. (born in 2013); and S.R. (born in 2014) (“Children”). Children have been exclusively homeschooled by Mother.
- [4] On March 20, 2023, DCS received a report alleging that there had been domestic violence in the home, Children had been subjected to physical abuse and educational neglect, and one of the children, Z.R., had perpetrated sexual abuse upon some of the others.
- [5] On March 28, DCS assessment caseworker Lindsay McGuire went to Parents’ home and spoke with Father. Father denied that there had been physical abuse in the home but acknowledged that there had been some incident between M.R. and Z.R. According to Father, this had happened years earlier and had been dealt with as a family matter.¹ McGuire observed that the residence was very cluttered and smelled of animal urine; however, there was plenty of food and a working bathroom, thus McGuire did not consider the conditions of the residence a top priority.

¹ Mother and Z.R. would later advise a therapist that Z.R. had accidentally touched M.R. on her breast on one occasion.

- [6] During McGuire's visit with Father, Mother and M.R. arrived home. Mother spoke with McGuire regarding the homeschooling regimen and produced a notebook in which she had made notations such as "ABC Mouse," "Baby," and "papers." (DCS Ex. 38.) She produced no written curriculum but indicated that the family incorporated learning experiences such as a recent trip to Washington, D.C. Mother advised McGuire that Mother had received a medical diagnosis that prevented her from providing all the education that Children needed.
- [7] At some point during the visit, M.R. "hid her face" and silently mouthed to McGuire "don't leave." (Tr. Vol. II, pg. 49.) McGuire spoke with M.R. separately and decided that further investigation was warranted. Two days later, McGuire conducted individual interviews of Children. Based upon their responses, McGuire recommended forensic interviews of M.R., C.R., E.R., and S.R. at a facility called Susie's Place.
- [8] Subsequently, a delinquency petition was filed as to Z.R. and he was placed in the temporary physical custody of an uncle. On April 21, DCS filed a petition alleging Children to be CHINS. DCS alleged that Children were suffering educational neglect and that Parents had not addressed the claim of sibling sexual abuse.
- [9] The CHINS petition was amended on July 12, with respect to Z.R. By that time, the delinquency petition had been dismissed and Z.R. was expected to

return to Parents' residence. DCS requested his continued removal as part of the CHINS proceedings, and the petition was granted.

[10] On July 21, the CHINS court conducted a factfinding hearing, at which Parents, service providers, and three of the children testified. M.R. testified that she was residing in Columbus Behavioral Center after having attempted suicide. She expressed fear of returning home, in light of Parents perceived anger and their "choosing [Z.R.'s] side." (*Id.* at 93.) M.R. described her past education, "before DCS came to [the] home," as consisting of "like, maybe a paper every month, some papers every month, just, like, out of nowhere." (*Id.* at 95.) She recalled homeschooling occurring every day when she was little but explained "I don't know how old [I was] they just kind of stopped." (*Id.*)

[11] Lifeline Youth and Family Services caseworker Brittany Lewellyn testified that C.R., aged twelve, struggled to spell short words such as "is" or "to." (*Id.* at 76.) E.R., then aged ten, and C.R. each testified; each was unable to spell his last name. C.R. stated that he was "learning to read" and he "didn't know about math." (*Id.* at 101.) C.R. and E.R. each testified that they had read one book and that they spent twenty minutes per day on an educational computer program. Father testified that he taught Children practical skills such as archery, gun safety, and bicycle repair. Both he and Mother testified that they did not believe M.R.'s allegations of sexual abuse.

[12] On August 2, the juvenile court entered its findings of fact, conclusions thereon, and order adjudicating Children as CHINS. The court found it to be in

Children's best interests to remain in the parental home. The court ordered that Z.R. be returned home as soon as a safety plan could be implemented, in accordance with his therapist's recommendation. The court additionally ordered that Z.R. not be left unsupervised with his siblings.

[13] On August 31, a dispositional hearing commenced; it was concluded on September 12. By the time of the hearing, results had been obtained from Children's educational assessments, revealing significant deficits. Court-appointed special advocate Amber Green ("the CASA") testified that she had reviewed the forensic interviews conducted at Susie's Place. Each child interviewed had reported having been struck by Parents with objects such as a backscratcher, paddle, or belt. M.R. had reported that Father grabbed her hair and threw her face down onto a sofa, where he had struck her as she struggled to breathe. S.R. reported having been struck in the face. None of the children interviewed "could tell when they'd been in school." (*Id.* at 197.) The CASA agreed with the DCS recommendation that Children be enrolled in public school; she also opined that Parents should be ordered to allow Children to speak privately with service providers as "Children don't seem able to speak freely." (*Id.* at 205.)

[14] On September 21, the juvenile court entered its dispositional order. The court ordered that Children remain in the home of Parents, with DCS granted wardship, having "responsibility for supervision, care and placement." (Dispositional Order at 1-2.) Parents now appeal.

Discussion and Decision

Adequacy of Findings and Conclusions for Appellate Review

[15] Indiana Trial Rule 52(A) provides that when a trial court enters findings “[u]pon its own motion,” it “shall find the facts specially and state its conclusions thereon.”² Parents contend that here the findings of fact and conclusions thereon are inadequate to permit meaningful appellate review. According to Parents, “thirty-nine of the juvenile court’s findings of fact simply report ‘what someone said is true,’ not ‘what is determined to be true’” and thus are only “purported” findings. Appellant’s Brief at 20.

[16] “A court or an administrative agency does not find something to be a fact by merely reciting that a witness testified to X, Y, or Z.” *In re Adoption of T.J.F.*, 798 N.E.2d 867, 874 (Ind. Ct. App. 2003). Instead, the factfinder “must find that what the witness testified to is the fact” and adopt the testimony. *Id.* In sum, parties “have a legal right to know the evidentiary bases upon which the ultimate finding rests.” *Id.* Here, the juvenile court prefaced the recitations of fact with the language: “the following findings of fact are found.” (Adjudication Order at 1.) In its lengthy and detailed findings of fact, the court adopted, and did not merely summarize, witness testimony. Also, the court

² Unlike in CHINS dispositional decrees, *see* Ind. Code § 31-34-19-10, no statute expressly requires formal findings in a CHINS factfinding order; nor did a party request them under Indiana Trial Rule 52(A).

made findings consistent with certain evidentiary exhibits. The parties, and this Court, are adequately advised of the evidentiary bases for the adjudication.

[17] Parents also contend that “the juvenile court’s boilerplate conclusions of law deprive Parents of meaningful appellate review and due process.” Appellant’s Brief at 23. They characterize the conclusions as “boilerplate summaries of CHINS law followed by bare statements that track the requirements of Indiana Code section 31-34-1-1.” *Id.*

[18] Parents direct our attention to the language of *In re A.K.*, 924 N.E.2d 212, 220 (Ind. Ct. App. 2010), wherein this Court highlighted the need for an “identifiable rationale” when “rights involved are of constitutional magnitude.”

We believe that a judgment terminating the relationship between a parent and child is impossible to review on appeal if it is nothing more than a mere recitation of the conclusions the governing statute requires the trial court to reach. Indiana’s parents and children deserve more, and the basic notions of due process inherent in our system of justice demand more.

Id. There, the probate court had issued an order terminating parental rights, without making any findings of fact. The order summarily stated that the allegations of the petition were true, followed by a bare recitation of the requisite statutory elements. *See id.* at 217. After an appeal was briefed, this Court issued an order to the trial judge directing him to enter complete findings of fact and conclusions of law to facilitate review. *Id.*

[19] Here, there is no such need for an order directing the entry of complete findings of fact and conclusions thereon. The juvenile court made extensive findings of fact, referenced applicable statutory and common law authority, and entered conclusions which referenced both the burden of proof and parental conduct. The challenged order is not inadequate for the purpose of meaningful appellate review.

Evidentiary Support for Adjudication

[20] Parents next argue that DCS failed to prove that Children are CHINS by a preponderance of the evidence. Parents contend that they had obtained appropriate mental health care for M.R. prior to DCS intervention, they had been cooperative with DCS and service providers, and some of their children were not shown to be seriously academically delayed, taking into consideration suspected learning disabilities.

[21] Indiana Code Section 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 State must prove by a preponderance of the evidence that a child is a CHINS as defined by the applicable statute. *In re K.D.*, 962 N.E.2d 1249, 1253 (Ind. 2012). Here, the juvenile court entered sua sponte findings and conclusions supporting its CHINS determination. The court concluded that there had been educational neglect but did not explicitly find that there had been sexual abuse in Parents' home.

[22] “As to the issues covered by the findings, we apply the two-tiered standard of whether the evidence supports the findings, and whether the findings support the judgment.” *In re S.D.*, 2 N.E.3d 1283, 1287 (Ind. 2014). However, “we review the remaining issues under the general judgment standard,” meaning we will affirm the judgment “if it can be sustained on any legal theory supported by the evidence.” *Id.* When reviewing the sufficiency of evidence, we neither reweigh evidence nor judge witness credibility. *In re K.D.*, 962 N.E.2d at 1253. Instead, we consider only the evidence and reasonable inferences most

favorable to the juvenile court's decision. *Id.* We reverse only upon a showing that the decision of the juvenile court was clearly erroneous. *Id.*

[23] Parents specifically challenge Findings 55, 56, and 57, which provide:

55. Mother and Father have minimized the educational neglect that has occurred in the home.

56. [Children] need services to address the educational neglect in the home.

57. [M.R.] needs mental health services to ensure her safety and emotional wellbeing.

(Adjudication Order at 6.) Our review of the record indicates that these findings do not lack evidentiary support. Mother reported to McGuire that she had been diagnosed with an illness that “could be debilitating at times” and that the homeschooling instruction had “fallen behind.” (Tr. Vol. II, pg. 56.) She initially agreed that Children would be better off in public school but expressed a different opinion the next day. Despite the changes in circumstances, Mother appeared convinced that Children would somehow attain sufficient knowledge to obtain GED certificates, as had her three adult children. Father appeared interested in teaching Children practical skills but had not become involved in addressing educational gaps. The finding as to parental minimization of educational neglect is supported.

[24] Parents take issue with the finding that Children, as a whole, need educational services. As Parents point out, S.R. did not testify or demonstrate deficiencies

in-court, and the Sylvan Learning Center educational evaluations were not available at the factfinding hearing. Nonetheless, there is ample evidence of the scant resources available to Children as a whole. While Mother claimed that homeschooling had decreased, M.R. testified that it had essentially ended. M.R. testified that she had learned to read when she was younger but at some point, instruction “kind of stopped.” (Tr. Vol. II, pg. 95.) Although Mother testified that she had used the Abeka curriculum and other programs in the course of homeschooling, the sole item that she produced for a caseworker was a notebook with a few handwritten notations. C.R. and E.R. related in their testimony that they had each read one book and spent twenty minutes daily doing schoolwork. The factfinder could reasonably infer that the dearth of resources and instructional time also left educational needs unmet for the children who did not testify.

[25] Finally, Parents observe that they had obtained mental health treatment and medication for M.R. prior to any DCS involvement. This fact is uncontested; however, it does not render Finding of Fact 57 unsupported. There is evidence that, as of the hearing date, M.R. continued to need mental health services. M.R. testified that she wished to remain in her therapeutic placement until her mental health improved. She expressed fear of Parents and Z.R. and articulated her belief that Parents were not on her side. She testified that Mother wanted to stop prior therapy sessions but continued them at the behest of DCS.

[26] At bottom, Parents argue that coercive intervention is not needed because they are willing to provide for M.R.’s mental health needs and Children’s

educational needs. To the extent that Parents invite us to reweigh the evidence, we will not do so. *In re K.D.*, 962 N.E.2d at 1253. The challenged findings, together with the unchallenged findings, support the conclusion that Children need care unlikely to be provided without the coercive intervention of the court.

Adequacy of Dispositional Order

[27] Indiana Code Section 31-34-19-1 requires that a juvenile court complete a dispositional hearing not more than thirty days after a child is adjudicated a CHINS to consider, among other things, “the alternatives for the care, treatment, rehabilitation, or placement of the child.” Parents contend that the juvenile court “failed to explain why it awarded wardship of the Children to DCS in its dispositional order.” Appellant’s Brief at 46.

[28] Indiana Code Section 31-9-2-134.5 defines wardship in the juvenile context as:

the responsibility for temporary care and custody of a child by transferring the rights and obligations from the child’s parent, guardian, or custodian to the person granted wardship. Except to the extent a right or an obligation is specifically addressed in the court order establishing wardship, the rights and obligations of the person granted wardship include making decisions concerning the:

(1) physical custody of the child;

(2) care and supervision of the child;

(3) child’s visitation with parents, relatives, or other individuals; and

(4) medical care and treatment of the child.

Here, the juvenile court modified the wardship duties to provide that Children remain in the physical custody of Parents.

[29] Indiana Code section 31-34-19-10(a) requires that the court “shall accompany” its CHINS dispositional decree with written findings of fact and conclusions thereon 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.

(6) Whether the child is a dual status child under IC [§] 31-41.

The CHINS statute expressly permits a trial court to “incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court’s dispositional decree.” I.C. § 31-34-19-10(b).

[30] At the dispositional hearing, family case manager Vickie Strunk testified that DCS had received the results of Children’s educational assessments. She related those results as follows. M.R., aged fifteen, tested at a grade level of 4.2 in math and 9.4 in both reading and writing. Z.R., aged thirteen, tested at a grade level of 5.7 for both reading and writing and a grade level of 5.3 for math. C.R., aged twelve, tested at grade level zero for both reading and writing and a grade level of 2.6 for math. E.R., aged ten, tested at zero for reading and at a grade level 2.9 for math. S.R., aged nine, tested at 1.6 for both reading and writing and at a grade level 2.0 for math. Sue Gens, the director of the local Sylvan Learning Center, testified that only M.R. could write in sentences; the others received a score of “straight zero” for sentence composition. (Tr. Vol. II, pg. 215.) Sylvan’s report was admitted into evidence.

[31] DCS supervisor Douglas Chastain testified that DCS does not have personnel to monitor homeschooling efforts, as suggested by Parents. The CASA testified and recommended that Children be enrolled in public school. She expressed concern that Children had previously reported multiple instances of physical and sexual abuse and “didn’t seem able to speak freely.” (*Id.* at 205.)

[32] The dispositional decree, entered September 21, 2023, does not specifically incorporate the predispositional report. Rather, the order states that the court had reviewed the predispositional report together with the statements and evidence presented. “Based on the information presented” in the report and provided at the hearing, the juvenile court ordered that Children remain in the parental home with tutoring, educational assessments at six-month intervals, and home-based casework. (Dispositional Order at 1.) In the case of M.R., she was to “be offered any mental health services necessary to maintain her mental health.” (*Id.* at 2.) Among other things, Parents were ordered to maintain contact with DCS and cooperate with service providers.

[33] Parents suggest that DCS supervision would have been preferable to DCS wardship and ask that the dispositional order be reversed. However, they have identified no statutory deficiency. Although the juvenile court is to state the reasons for the disposition chosen, Indiana Code Section 31-34-19-10 imposes no obligation to explain why another alternative was not selected.

Conclusion

[34] The adjudication order includes adequate findings and conclusions to facilitate appellate review. Parents have not shown that the juvenile court’s decision is clearly erroneous. The dispositional order is not deficient.

[35] Affirmed.

Crone, J., and Pyle, J., concur.

ATTORNEY FOR APPELLANTS

Patrick J. Smith
Lawrence County Public Defender Agency
Bedford, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Monika Prekopa Talbot
Deputy Attorney General
Indianapolis, Indiana