

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

In the Matter of:
M.H. (Minor Child),
Child in Need of Services
and
T.H. (Mother),
Appellant-Respondent

v.

Indiana Department of Child Services,
Appellee-Petitioner

April 29, 2024

Court of Appeals Case No.
23A-JC-2590

Appeal from the Montgomery Circuit Court
The Honorable Darren C. Chadd, Judge

Trial Court Cause No.
54C01-2305-JC-92

Memorandum Decision by Chief Judge Altice
Judges Bradford and Felix concur.

Altice, Chief Judge.

Case Summary

[1] T.H. (Mother) appeals the trial court’s adjudication of her minor child M.H. (Child) as a child in need of services (CHINS). Mother challenges the sufficiency of the evidence.

[2] We affirm.

Facts & Procedural History

[3] Mother is Child’s sole surviving parent, and her other children, all adult sons, live outside the home she shares with Child. Mother has a history of mental illness that has gone untreated for years. As a result, she experiences homicidal thoughts and regularly shares her delusional and paranoid thinking with others, including Child.

[4] On May 25, 2023, Olyvia Wood, a licensed social worker and member of the Crawfordsville Quick Response Team (QRT), was dispatched to Mother’s home by the chief of police out of concern for Mother’s mental health. Mother spoke with Wood but denied entry into her home and refused assistance with obtaining mental health services. During their interaction, Mother made comments that Wood found “very concerning.” *Transcript* at 59.

- [5] That same day, the Indiana Department of Child Services (DCS) received a report detailing concerns for Child’s safety in Mother’s care. Jessica Alesi, a family case manager with DCS, investigated the report and made an unannounced visit to Mother’s home on the morning of May 26, while Child was at school. Upon speaking with Mother, Alesi became “extremely concerned” for Child’s safety. *Id.* at 116. Alesi went to Child’s school and spoke with officers of the Crawfordsville Police Department, including the school resource officer, and then with Child. Alesi took Child into DCS emergency custody that afternoon and placed her in relative care.
- [6] On May 30, 2023, DCS filed a petition alleging that Child was a CHINS. The next day, the trial court ordered the continued removal and detention of Child. The CHINS factfinding hearing began on June 21 and concluded a month later, with delays related to Mother obtaining counsel.
- [7] On September 28, 2023, the trial court issued its order finding Child to be a CHINS. Because Mother has not challenged any of the trial court’s extensive findings of fact, we accept them as correct and set them out here:
1. [Child] was born on February 19, 2009, and is currently 14 years of age.
 2. [Child’s] father is deceased.
 3. [Child] resides with [Mother] in Crawfordsville, Indiana.
 4. There is no doubt that [Mother] loves her daughter dearly.
 5. [Child] is a Freshman at Crawfordsville High School.

6. It is uncontroverted that [Mother] has homicidal thoughts and was prescribed medication for the same in the past. But, [she] no longer takes the medication.

7. [Mother] acknowledges she has previously been diagnosed with post-traumatic stress disorder.

8. [Mother] admits to smoking marijuana daily, and “advocating” for marijuana. [Child] is aware of this.

9. On May 25, 2023, Olyvia Wood ... was dispatched to talk to [Mother] due to concerns for [Mother’s] mental health. Ms. Wood was referred by members of the community to see if [Mother] needed mental health services and to provide resources for the same.

10. Ms. Wood spoke to [Mother] at her home. [Mother] disputed that the contact was due to concern for her mental health and believed it was because people and [Child’s] school are “after her” due to allegations she had made. During the encounter [Mother] seemed excited and emotional, she cycled through emotions quickly, and she had a hard time regulating her emotions. Her accounts of events were not in chronological order.

11. [Mother] made several statements to Ms. Wood that did not seem credible and several statements that were concerning to her. For instance, [Mother] believed school personnel were targeting her and [Child] and were brainwashing other students against [Child]. [Mother] made statements that she was angry at school officials for suggesting her daughter take honors classes. [Mother] believed people were bullying [Child]. Due to her frustration with the school, [Mother] stated she understood why people shoot up schools. She also said there were school faculty members that she would harm if she had the chance. [Mother] believes the entire community is against her and [Child]. She stated that she believes people are breaking into her house and defecating on the floor. She denied access to her home.

12. Ms. Wood became concerned for the apparent instability of [Mother's] mental health. She believed [Mother] was being delusional and having excessive paranoia.

13. Ms. Wood offered [Mother] counselling or other services, but [Mother] refused. [Mother] said she would "get that through the Attorney General's office of the United States because an FBI investigation is happening".

14. Ms. Wood had concern for [Child's] safety based on her interaction with [Mother] on May 25, 2023.

15. [DCS] received a report concerning [Child's] safety, and Family Case Manager Jessica Alesi initiated an investigation on May 26, 2023.

16. FCM Alesi spoke to [Mother] on May 26, 2023. [Mother's] statements and behavior were concerning to FCM Alesi. [Mother] denied entry into the home, stating that people had been breaking into the home and defecating, and she had not been cleaning up because the people merely return if she does so. [Mother] stated she had a history of having homicidal thoughts for which she had previously been treated and prescribed medication, but she was currently not taking medication. She told FCM Alesi that many community members, including current and former school personnel, are conspiring against her and are "out to get" and harm her and her family. [Mother] said she believes [Child] is unsafe in the community and at school. She also said that [Child] isn't smart enough to be in advanced classes and that [Child] was approved for such class(es) only to set her up to fail. [Mother] also stated she saw someone, whom she believes was a police officer, in her bedroom in the middle of the night, so she barricades her doors. [Mother] made several comments alluding to homicidal thoughts relating to community members and about people getting "what they have coming to them". [Mother] told the FCM that she regularly tells [Child] these things.

17. [Mother] told FCM Alesi she smoked marijuana every day and that [Child] is aware of this.

18. FCM Alesi had concerns for [Child] and arrangements were made to talk to her. But, [Mother] then no longer wanted [DCS] to speak to [Child]. [Mother] texted [Child] that DCS was coming to speak to her and directed her not speak to DCS. [Mother] sent this text by talk-to-text, meaning she spoke the words into her cell phone, in Ms. Alesi's presence.

19. FCM Alesi was extremely concerned for [Child's] safety after talking to [Mother].

20. FCM Alesi went to [Child's] school also on May 26, 2023. When she arrived, [Child] was in tears and was very emotional when speaking about her mother.

22. Upon learning [DCS] was removing [Child] from her care, [Mother] responded "Thank God", thanked FCM Alesi, and told her that [Child] was (after the removal) where she needed to be. [Mother] feared for her child's safety in their home.

23. When FCM Alesi reiterated to [Mother] her concerns for her mental health, [Mother] responded "Absolutely, I need mental health treatment". [Mother] advised that Ms. Wood was helping her obtain such treatment, although she had in fact refused all assistance from Ms. Wood. [Mother] declined FCM Alesi's offer to refer her for mental health services.

24. [Mother] declined offers for visitation with [Child] immediately after the removal and for a few weeks thereafter.

25. A child and family team meeting was held in [Mother's] home in the early part of June of 2023. [Mother] acknowledged her prior PTSD diagnosis and having homicidal thoughts, and that she was not taking medications. [Mother] was offered mental health treatment from DCS and Ms. Wood's community

support[], but she declined mental health treatment from any provider. She also declined visitation with [Child] at this meeting.

26. [Mother] refused to sign release forms to allow DCS to obtain information and records about [Child's] schooling or healthcare, or for [Mother's] own mental health records.

27. Shortly after [Child's] removal, [DCS] sent a referral for mental health treatment for [Child]. [Child] began to see therapist Jen Green in June, 2023.

29. Ms. Green completed a psychosocial assessment interview with [Child]. She found [Child] to be open and honest[.]

30. Ms. Green diagnosed [Child] with adjustment disorder and parent/child relationship disorder. [Child] also disclosed trauma she had observed while living with her mother. Ms. Green observed characteristics of post-traumatic stress disorder (PTSD) and wants to determine if [Child] had PTSD or another mental health diagnosis.

31. The child's mental health diagnoses, including potential PTSD, are serious mental conditions, as described by her therapist, Ms. Green.

32. [Child's] emotional and mental condition is seriously impaired and she needs therapy that she was not receiving before being removed from her mother.

33. Ms. Green's observations of [Mother] in the courtroom during the hearings in this case caused her to have concerns about [Mother's] mental health stability. She believes [Mother] presents as someone who believes she is being persecuted.

34. Information about [Mother's] untreated mental health issues is important to the therapist and impacts the child's treatment.

35. [Child] has suffered traumatic events in her mother's care and home.

36. [Child] is now engaged in trauma-focused cognitive behavioral therapy with Ms. Green. Ms. Green determined that this evidence-based treatment for children impacted by trauma is appropriate for [Child].

37. [Mother] testified that she last obtained mental health services in 2012, through the Family Crisis Shelter and Cummins Behavioral Health.

38. [Mother] acknowledged in her testimony having homicidal thoughts, but she denied being prescribed medications specifically to address that issue.

39. [Mother's] untreated mental health conditions significantly affect [Child's] mental health in a negative manner, as determined by Ms. Green.

40. Placing [Child] back in her mother's care without addressing [Mother's] conditions would negatively affect [Child] and create significant potential for additional trauma to her. [Child's] issues cannot be adequately addressed or resolved until [Mother's] conditions are addressed.

41. [Child] disclosed observing violence in her home with her mother.

42. [Child] has experienced panic attacks.

43. [Mother's] conspiratorial theories are significantly and negatively affecting the child.

44. [Mother] talks of wanting to harm others, especially "her abusers".

45. [Mother's] mental health and behavior can be a root cause of [Child's] possible PTSD.

46. [Mother] has believed for years that [Child] needed therapy. [Mother] did not allow the child to receive therapy because she did not agree with the reason it was necessary—she believed it was because [Child] was being bullied—and she did not agree about an appropriate therapist or counsellor.

47. It is uncontroverted that [Child] needs therapy, currently, to address her emotional and mental health.

48. [Child] repeatedly being told by her mother that people are out to harm her or to “get her”, and that [s]he is the focus of a conspiracy (or multiple conspiracies) can negatively impact [Child’s] mental health.

49. [Child’s] emerging mental health issues were concerning and serious to Ms. Green, and [Child] needs therapy, stability, and to feel safe and secure.

50. [Mother] has rejected offers from [Child’s] school to provide counselling for [Child].

51. [Mother’s] home consists of two separate apartments; [Mother] stays in one apartment and [Child] stays in the other. Both apartments have doors that lock. At night, [Child] stays in her room in her apartment and [Mother] stays in her apartment across the hall.

52. [Child] missed nine or ten weeks of school during the 2022-2023 school year. She wanted to go to school, but her mother would not let her go. [Mother’s] failure to provide the child appropriate education was unknown to DCS prior to [Child’s] testimony at the fact finding hearing.

53. [Child] was approved for an honors English class, but her mother will not let her be in the honors class. She states that [Child] “isn’t smart enough” for the class and is merely being set up for failure so the school can take other adverse action against her.

54. Before sending [Child] to school in the mornings, [Mother] frequently tells [Child] that people are out to get her, and [Child] sometimes believes it.

55. [Child] did not ask for help from others. [Child] hoped someone would help her by taking her from her mother's home.

56. [Mother] requested visitation with [Child] in July of 2023. The first visitation between the two occurred on July 14, 2023, and it lasted thirty-five minutes. [Mother] expressed hostility toward [Child] and the visit was ended early at [Child's] request.

57. The second scheduled visitation resulted in the visitation provider discharging the service. [Child] was not present for the visitation due to a misunderstanding; [Mother] became angry and threatening toward the visitation supervisor, and the visitation provider decided to no longer provide services to [Mother].

58. [Child] tells her mother that she is not bullied at school, but [Mother] does not believe her.

59. [Child] was found to have a vape at school during the prior school year; [Mother] believes [Child] was framed, even though [Child] has told her she was not.

60. [Mother] fixates on the school as out to get her and [Child] in many ways.

61. [Child] does well in school and she has participated in sports and other activities. [Mother] has historically supported her in such activities.

62. The fact that [Child] is well-functioning in some aspects does not diminish the seriousness of her mental health issues. Children with serious mental health issues can thrive in some areas of their lives.

63. [DCS] was initially concerned with mold in [Mother's] home, but that condition was resolved by the time of the fact finding hearing.

64. Witnesses believe, based on their interactions with [Mother] and their observations of her statements and behavior, that [Mother] suffers from serious mental health issues that need to be addressed. She is consistently described as delusional and excessively paranoid.

65. [Mother's] mental health issues, regardless of diagnosis, are actually and seriously [a]ffecting [Child].

Appendix at 82-86.

- [8] Following the dispositional hearing on October 17, 2023, and the dispositional order issued the next day, Mother now appeals. Additional information will be provided below as needed.

Discussion & Decision

- [9] A CHINS proceeding is a civil action that requires DCS to prove by a preponderance of the evidence that a child is a CHINS as defined by the juvenile code. *In re K.D.*, 962 N.E.2d 1249, 1253 (Ind. 2012). On review, we neither reweigh the evidence nor judge the credibility of the witnesses and will consider only the evidence and reasonable inferences that support the trial court's decision. *Id.* We will reverse upon a showing that the trial court's decision was clearly erroneous. *Id.* Further, in family law matters, we grant latitude and deference to trial courts in recognition of the trial court's unique ability to see the witnesses, observe their demeanor, and scrutinize their

testimony. *In re A.M.*, 121 N.E.3d 556, 561-62 (Ind. Ct. App. 2019), *trans. denied*.

[10] There are three elements DCS must prove by a preponderance of the evidence for a child to be adjudicated a CHINS:

DCS must first prove the child is under the age of eighteen; DCS must prove one of eleven different statutory circumstances exist that would make the child a CHINS; and finally, in all cases, DCS must prove the child needs care, treatment, or rehabilitation that he or she is not receiving and that he or she is unlikely to be provided or accepted without the coercive intervention of the court.

K.D., 962 N.E.2d at 1253 (footnote omitted). Here, DCS alleged the most common statutory circumstance for a CHINS adjudication, Ind. Code § 31-34-1-1, which is often referred to as “the neglect statute” and applies when “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 ... to supply the child with necessary food, clothing, shelter, medical care, education, or supervision.” I.C. § 31-34-1-1(1)(A).

[11] The purpose of a CHINS adjudication is to protect the children, not punish the parents. *K.D.*, 962 N.E.2d at 1255. The focus of a CHINS proceeding is on “the best interests of the child, rather than guilt or innocence as in a criminal proceeding.” *Id.* (quoting *In re N.E.*, 919 N.E.2d 102, 106 (Ind. 2010)). And the CHINS statutes do not require a court to wait until a tragedy occurs to intervene; rather, a child is a CHINS when he or she is endangered by parental

action or inaction that is unlikely to be remedied without coercive intervention by the court. See *In re C.K.*, 70 N.E.3d 359, 364 (Ind. Ct. App. 2016), *trans. denied.*

[12] Further, when determining CHINS status, particularly the coercive intervention element, courts should consider the family's condition not just when the case was filed, but also when it is heard to avoid punishing parents for past mistakes when they have already corrected them. *In re D.J.*, 68 N.E.3d 574, 580-81 (Ind. 2017). This 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.'" *In re S.D.*, 2 N.E.3d 1283, 1287 (Ind. 2014) (quoting *Lake Cnty. Div. of Family & Children Servs. v. Charlton*, 631 N.E.2d 526, 528 (Ind. Ct. App. 1994)).

[13] As noted above, Mother has not challenged any of the trial court's specific findings of fact. Thus, the unchallenged findings "stand as proven" and, on appeal, "we simply determine whether the unchallenged findings are sufficient to support the judgment." *A.M.*, 121 N.E.3d at 562-63.

[14] The trial court's findings amply support the CHINS adjudication. The findings show that Mother has serious mental health issues that have gone untreated for years and for which Mother, even after Child's removal, has continued to refuse treatment. Mother admitted to having a past PTSD diagnosis and to suffering from homicidal thoughts, and she acknowledged needing mental health

treatment yet consistently rejected Wood's and DCS's offers to help with securing treatment. Further, Mother's extreme paranoia and delusional thinking were on display throughout the underlying CHINS proceedings, including during her own testimony.

[15] As the trial court correctly recognized, a parent's mental illness alone cannot alone support a CHINS adjudication. *See Matter of E. Y.*, 93 N.E.3d 1141, 1146 (Ind. Ct. App. 2018). That is, DCS must present evidence of the effect on the child of the parent's mental illness, specifically whether the child's physical or mental condition is seriously impaired or seriously endangered as a result. *See id.* (reversing CHINS adjudication where "DCS presented no evidence relevant to the impact, if any, of Mother's mental illness on Child's condition" and thus did not show that "Mother's mental health endangered Child at all, let alone that her mental health *seriously* endangered him") (emphasis in original).

[16] On appeal, Mother asserts that DCS presented no evidence that her mental illness had endangered Child or resulted in Child's needs not being met. And she directs us to evidence that her home was free of mold by the factfinding hearing, that Mother paid bills for the home and provided transportation for Child, and that Child is an excellent student, active in sports, and employed. Thus, Mother contends that Child was not in need of services at the time of the factfinding hearing.

[17] Mother's argument ignores clear evidence that Child's own mental health has been seriously endangered or impaired by Mother's untreated mental illness

and that Mother has refused to provide Child with needed therapy despite urging from Child’s school counselor.¹ After removal from Mother’s care, Child completed a psychosocial assessment with Green, who then diagnosed Child with adjustment disorder, parent/child relationship disorder, and possible PTSD. Thereafter, Green provided Child with trauma-focused cognitive behavior therapy, which was helping Child deal with past trauma and turn from “maladaptive coping skills” to “some very positive ones.” *Transcript* at 157.

[18] Green testified that she would be concerned if Child were returned to Mother’s care at that time because Mother’s untreated mental illness “directly affect[s]” Child and “the instability and the ... potential for ongoing trauma would be significant.” *Id.* at 156. Thus, Green opined that Child still needed therapy and that before Child could be safely returned to Mother’s care, “it’s critical” for Mother to obtain treatment for her own mental illness and for Mother and Child to engage in family therapy. *Id.* at 159.

[19] In sum, the findings show a direct link between Mother’s untreated mental illness (and resulting behavior) and Child’s serious diagnoses.² And the findings establish that Mother has been unwilling to allow Child to be provided

¹ At the factfinding hearing, Mother testified that she had refused needed therapy for Child due to a dispute with the school regarding the source of Child’s trauma. Mother believed the school was to blame, and the school felt trauma was coming from inside the home. Mother testified: “And so I will not allow a false entry into why my daughter needs treatment until you guys agree with me, because I am the expert on my daughter.” *Id.* at 192. Mother explained further that she believed everyone at the school had been engaged in a coverup for years and that Mother “did not trust anybody.” *Id.* at 193.

² The trial court also concluded that Mother’s paranoia had resulted in educational neglect, as Mother kept Child out of school for over two months in the fall of 2022 despite pleas from Child to go back to school.

with the therapeutic care she needs and has refused to treat her own mental illness to limit trauma and instability within the home. Clearly the coercive intervention of the court is needed here to ensure a safe home environment for Child.

[20] Judgment affirmed.

Bradford, J. and Felix, J., concur.

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