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CHINS

8/26/03

In **In the Matter of K.B.**, 793 N.E.2d 1191 (Ind. Ct. App. 2003), decided August 26, 2003, the Court affirmed the juvenile court's denial of the motion to dismiss the CHINS petition filed by LaPorte County Office of Family and Children. The mother placed the ten-year-old minor child in an inpatient psychiatric center on January 16, 2002 due to severe aggression, destruction of property, fire-setting, running away and truancy. The child was determined psychiatrically stable one month later on February 14, 2002 and ready to be discharged to a less restrictive, long-term residential setting. Medicaid determined that inpatient care was no longer medically necessary and denied further inpatient funding. The mother refused on four different occasions to accept care, custody and supervision of the child. Mother wrote a letter to Madison Center stating, "I am unable to give him the kind of supervision that I feel he must have." Additionally, the mother wrote the child "should go to residential treatment as is recommended by Madison Center." Madison Center forwarded the letter to LaPorte County Office of Family and Children (LPOFC). On March 25, 2002, LPOFC filed a petition alleging that the child was a CHINS. The initial hearing was held on May 30, 2002 where the mother admitted to the allegations in the CHINS petition. The hearing was continued to give LPOFC additional time to file an amended CHINS petition and a memorandum explaining LPOFC's position on the matter. At the hearing on June 28, 2002, LPOFC filed a memorandum and a motion to hold the proceedings in abeyance. LPOFC did not file an amended CHINS petition, stating that LPOFC did not have sufficient means to proceed with the existing CHINS petition and wanted to withdraw the petition. Madison Center then warned that the child would not be safe at home and they would have to contact law enforcement or child protective services if the petition were withdrawn and the child had to go home with the mother. LPOFC then requested and was granted additional time to further investigate the child's status. On July 2, 2002, Madison Center filed a motion to permit residential placement of the child without prejudice. The juvenile court granted the motion without a hearing. On July 8, 2002, LPOFC filed a motion to dismiss the CHINS petition stating the mother and Madison Center had entered into a "private agreement" which eradicated the need for CHINS jurisdiction. The juvenile court denied the LPOFC's motion to dismiss, stating that Madison Center's motion to permit placement did not indicate a private agreement and mother had admitted her inability to provide appropriate care of the child in her home and was financially unable to pay for Madison Center. The court entered its dispositional order on December 31, 2002. LPOFC appealed the denial of the motion to dismiss.

The juvenile court has exclusive original jurisdiction when the proceedings comply with the jurisdictional prerequisites set forth in I.C. 31-34. LPOFC argued that the juvenile court was required by law to grant the motion to dismiss; and therefore, was without jurisdiction to enter a dispositional order. *Id.* at 1196. The Court looked at the process of determining whether a child is a CHINS to answer the question of exclusive original jurisdiction. *Id.* I.C. 31-34-7-1 states that the process of determining whether a child is a CHINS starts at the intake level. A person gives information to an intake officer who is required to make a preliminary inquiry. The preliminary inquiry is forwarded to the person representing the interests of the state with a recommendation on how to handle the case. I.C. 31-34-7-2. The person representing the interests of the state then decides whether to request authorization from the juvenile court to file a petition. I.C. 31-34-7-3. The juvenile court then authorizes the filing of a CHINS petition if the juvenile court finds probable cause to believe the child is a CHINS. I.C. 31-34-9-2. Because the proceedings in the case complied with these jurisdictional requirements, the juvenile court did have exclusive original jurisdiction. *Matter of K.B.* at 1197.

The ability of LCOFC to move for mandatory dismissal of the CHINS petition ended when the mother admitted to the allegations contained within the CHINS petition. I.C. 31-34-9-8 states “upon motion by the person representing the interests of the state, the juvenile court *shall* dismiss any petition the person has filed.” (emphasis added). However, this conflicts with I.C. 31-34-10-8 which states that once a parent admits to the allegations in a CHINS petition, the juvenile court *shall* enter judgment and schedule a dispositional hearing. (emphasis added). The Court concluded that once a parent admitted to the allegations in a CHINS petition, the ability of LPOFC to move for mandatory dismissal ended. *Matter of K.B.* at 1198. When a motion to dismiss is filed after the parent’s admission, the juvenile court may judge the motion on its merits rather than automatically granting the dismissal. *Id.* Additionally, the Court found these issues had been waived by LPOFC since they failed to properly preserve the issue on appeal. *Id.* at fn. 4.

The juvenile court did properly base its finding that the child was a CHINS based on the fact that the mother had admitted to the allegations in the CHINS petition. The LPOFC argued that the juvenile court based its decision on facts not alleged in the petition. *Id.* at 1199. I.C. 31-34-10-6 states that if the parent admits to the allegations in the CHINS petition, the juvenile court shall enter judgment accordingly and schedule a dispositional hearing. Because the mother admitted to the allegations in the CHINS petition and the court based its findings on this admission, further supported by the documentary evidence and oral representations received by the juvenile court in the course of hearings, the evidence was sufficient to support the juvenile court’s CHINS adjudication. *Id.* at 1201.