

Children's Law Center of Indiana



Termination of the Parent-Child Relationship

9/7/2018

In **In Re J.K.**, 110 N.E.3d 1164 (Ind. Ct. App. 2018), the court reversed and remanded the trial court's order which terminated Mother's parental rights. The Court found that DCS violated Mother's due process rights during the termination of parental right proceedings, and further commented that the pattern and practice of DCS of admitting a failure of due process and requesting a remand is disturbing trend.

Mother waived her right to counsel during the CHINS proceedings, but requested counsel at her initial hearing for TPR. The next month, a "status of counsel hearing" was held and Mother failed to appear. Based on this failure to appear, the trial court entered a default judgement against her and terminated her parental rights. A motion to correct error filed by Mother was denied. On appeal DCS conceded that Mother was provided with adequate or appropriate due process protections, and the overall process in her case did not meet the requirements of the Indiana Code.

"Compliance with the statutory procedure of the juvenile code is mandatory to effect termination of parental rights." Id. at 1165, citing In re H.K., 971 N.E.2d 100, 103 (Ind. Ct. App. 2012). Mother and DCS agreed that reversal and remand is appropriate in this case, as "the trial court failed to enter findings of fact and conclusions of law as required by Indiana Code section 31-35-2-8." Id. at 1165. The Court also formally admonished DCS for its "failure to afford litigants throughout this state the due process rights they are owed. Furthermore, the Court also reminds the trial courts throughout this state of their duty to ensure that litigants' due process rights are not violated." Id.