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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF S.S. and A.S.	)	
	)	
A.P.,	)	
	)	
Appellant-Respondent,	)	
	)	
vs.	)	No. 49A02-0811-JV-1016
	)	
MARION COUNTY DIVISION, INDIANA DEPARTMENT OF CHILD SERVICES,	)	
	)	
Appellee-Petitioner.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Gary K. Chavers, Judge Pro Tempore
The Honorable Beth Jansen, Magistrate
Cause No. 49D09-0710-JC-42724 & Cause No. 49D09-0710-JC-42725

May 26, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Respondent A.P. ("Mother") appeals the finding by the juvenile court that her children, S.S. and A.S., are Children in Need of Services ("CHINS"). We dismiss.

Issue

The dispositive issue is whether the CHINS finding is properly before this court because such a finding by itself is not a final appealable order.

Facts and Procedural History[1]

On October 3, 2007, Mother took A.S. to Methodist Hospital because A.S. was continuing to experience headaches, which had started occurring a few months prior. The medical staff requested that a social worker at the hospital speak with Mother due to Mother's agitated and irritated demeanor. While speaking with Mother, the social worker felt that Mother became aggressive and provided contradictory responses to questions regarding medical insurance and benefits. The social worker attempted to work with Mother but when Mother became agitated and the situation could not be de-escalated, the social worker contacted the Marion County Department of Child Services ("MDCS"). MDCS then took custody of the Children.

[1] The Children were also determined to be CHINS as to their Father, but Father has not appealed to challenge his dispositional order.

On October 9, 2007, MDCS filed a petition alleging that Mother's children, A.S. and S.S., were CHINS due to Mother's mental health and substance abuse issues. The whereabouts of the Father of the children was not known at the time. Prior to this incident, Mother had been involved in a CHINS case in 2002 regarding S.S.

Parenting and psychiatric assessments were completed for Mother. Dr. Mary Papandria, who performed the psychological evaluation, concluded that Mother had a Major Depressive Disorder with psychotic features and also exhibited paranoid and grandiose delusions. During the assessments, Mother admitted to last using marijuana and ecstasy three weeks prior to the interview, and she tested positive for marijuana in a drug screening.

Based on Mother's admission of drug use during the assessment interview, MDCS recommended that Mother attend an intensive outpatient substance abuse program and provided a referral to Gallahue Mental Health Clinic. Due to Mother's display of depression symptoms and an almost frantic demeanor during the intake interview at Gallahue, Mother was referred to a dual diagnosis program, targeting substance abuse and mental health issues. After Mother was unsuccessfully discharged from the dual diagnosis program for missing multiple sessions, she was referred to another dual diagnosis program. However, the same result occurred.

In January 2008, home based counseling was started with Mother. While Mother was cooperative for months, therapist Emily Haille discharged Mother from counseling due to two incidents. The first involved Mother missing an appointment although Mother left an explanatory note. Second, Mother was not home for an unannounced visit by Haille. Haille

left a note for Mother to call her after the unannounced visit, but Mother did not call Haille. Haille expressed concerns that a few weeks before the fact-finding hearing she was not able to determine whether Mother was taking her anti-depressant medication because Mother explained that she was having difficulty obtaining samples of the needed medication from Gallahue. Haille testified that prior to that time Mother had been taking her medication regularly. Haille also indicated Mother had acknowledged that she was socializing with friends who were using drugs in her presence. Mother was also referred to parenting classes, which she successfully completed.

After holding fact-finding hearings on June 12, and July 3, 17, and 24 of 2008, the juvenile court entered an order finding that the Children were CHINS. Prior to the disposition hearing in regards to Mother, Mother filed a Notice of Appeal, challenging the CHINS determination. Two weeks later, the juvenile court conducted the disposition hearing.

Discussion and Decision

The State raises the issue of whether this case is properly before this Court because Mother filed her notice of appeal after the CHINS order but before the dispositional hearing was held. Because a CHINS determination is merely a preliminary step to choosing among several different dispositional alternatives, there is only a final appealable order after the dispositional hearing has been held to determine the rights of the parties. See Ind. Code § 31-34-20-1; In the Matter of J.V., 875 N.E.2d 395, 399 (Ind. Ct. App. 2007), trans. denied.

Mother concedes that her notice of appeal preceded her dispositional hearing, making

her appeal untimely. However, she notes that this Court on occasion has addressed the merits of such untimely cases so long as a dispositional hearing has been conducted by the juvenile court and the resulting order is available for this Court to review. See In the Matter of J.V., 875 N.E.2d at 399; T.Y.T. v. Allen County Div. of Family & Children, 714 N.E.2d 752, 756 n.3 (Ind. Ct. App. 1999). We agree that this Court has the inherent authority to review a case in this procedural posture. However, our review necessitates a dispositional order that provides the critical information to conduct a proper review under the statute. The dispositional order contained in this record is lacking in this regard. Therefore, while we have the authority in limited circumstances to review the merits of CHINS cases that are appealed prior to the entry of a final appealable order, we also have the authority to dismiss those claims which are premature. In this case, we choose the latter.

Dismissed.

DARDEN, J., and ROBB, J., concur.