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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF: S.D. (Minor Child), Child In Need of Services,	)	
and,	)	
J.B. (Mother)	)	
Appellant-Respondent,	)	
vs.	)	No. 49A05-1209-JC-488
THE INDIANA DEPARTMENT OF CHILD SERVICES,	)	
Appellee-Petitioner.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn Moores, Judge
The Honorable Diana Burleson, Magistrate
Cause No. 49D09-1205-JC-19222

May 29, 2013

MEMORANDUM DECISION – NOT FOR PUBLICATION

BARNES, Judge

Case Summary

J.B. ("Mother") appeals the trial court's determination that her daughter, S.D., is a child in need of services ("CHINS") and the disposition ordered by the trial court. We affirm.

Issues

Mother raises two issues, which we restate as:

I. whether the evidence is sufficient to support the trial court's CHINS determination; and

II. whether the trial court properly ordered Mother to participate in home-based counseling.

Facts

Until March 2012, Mother lived in Gary with her five children, T.B., N.B., D.B., S.D., and J.D. In March 2012, two-year-old S.D. was having trouble breathing, and Mother took her to North Lake Methodist Hospital in Gary. After being transferred to South Bend Memorial Hospital, S.D. went into cardiac arrest and was transferred to Riley Hospital ("Riley") in Indianapolis. Initially, Mother stayed at the Ronald McDonald House in Indianapolis and the other children remained in Gary. Eventually three of Mother's other children began staying with her at the Ronald McDonald House. Mother and the children then began staying with a friend and eventually at a homeless shelter.

The Department of Child Services ("DCS") became involved with the family on April 25, 2012, and a CHINS petition was filed on May 11, 2012. At some point, Mother agreed to allow the children to be removed from her care so that she could focus on learning to care for S.D. Because of S.D.'s medical needs, Riley required Mother to complete a two-part parenting class and to participate in a 24-hour training intended to simulate the home environment. Riley also required that a second caregiver undergo the same training.

After the CHINS petition was filed, Mother secured a three-bedroom apartment in Indianapolis, participated in services, and completed the two-part parenting class. Mother, however, had difficulty locating a second caregiver and did not complete the 24-hour training. In July 2012, S.D. was released from the hospital and placed in therapeutic foster care. At the time of the August 15, 2012 fact-finding hearing, a family friend had agreed to be the second caregiver and was prepared to participate in the necessary training.

Following the fact-finding hearing, the trial court found that DCS did not meet its burden of showing that the other children were CHINS and closed the case as to them. Regarding S.D., the trial court found that she was a CHINS because of her medical needs and the amount of training still outstanding and ordered Mother to participate in home-based counseling. Mother now appeals.

Analysis

Because a CHINS proceeding is a civil action, the State is required 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). In our review of a CHINS determination, we consider only the evidence that supports the trial court's decision and reasonable inferences drawn therefrom, and we neither reweigh the evidence nor judge the credibility of the witnesses. Id. "We reverse only upon a showing that the decision of the trial court was clearly erroneous." Id.

I. Sufficiency

Here, the CHINS petition was based on Indiana Code Section 31-34-1-1, which 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; 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.

Mother argues that DCS failed to prove that she was unable to provide S.D. with necessary medical care. Instead, Mother asserts that the evidence only shows she was having difficulty providing S.D. with medical care. See Lake Cnty. Div. of Family & Children Servs. v. Charlton, 631 N.E.2d 526, 528 (Ind. Ct. App. 1994) (distinguishing between difficulty and the inability to meet a child's needs). There is no dispute that Mother made great strides in preparing for S.D.'s return to her custody. Nevertheless, at

the time of the fact-finding hearing, neither Mother nor the recently selected second caregiver had completed the medical training required by Riley to address S.D.'s complex medical needs. The evidence supports the determination that Mother was unable to meet S.D.'s medical needs at that time.

Mother also argues that DCS failed to prove she was unlikely to provide the necessary care without court intervention. Although the record shows that Mother actively sought medical treatment for S.D., there is also evidence that in April 2012 Mother was informed that special training would be required before S.D. could be returned to her care and that, as of the August 15, 2012 fact-finding hearing, neither Mother nor a second caregiver had completed the training. Although we appreciate that geographic and economic limitations made it difficult for Mother to meet the requirements, we conclude the evidence was sufficient to show that the necessary care was unlikely to be provided without the intervention of the trial court.

II. Participation in Home-Based Counseling

Mother also argues that the trial court erroneously required her to participate in home-based counseling because it was unrelated to the CHINS adjudication. According to Mother, no need for home-based counseling services was shown. We disagree. Although Mother had already been receiving such services and the other children were returned to her custody, the family case manager testified at the fact-finding hearing that home-based services should be continued to assist Mother "with community resources and to help with employment and stable housing and whatnot, and to supervise her visits with [S.D.]." Tr. pp. 117-18. The continuation of these services is closely related to

Mother being able to provide a stable home environment for S.D. It was within the trial court's discretion to require Mother's continued participation in home-based counseling. See In re A.C., 905 N.E.2d 456, 464 (Ind. Ct. App. 2009) ("Although the juvenile court has broad discretion in determining what programs and services in which a parent is required to participate, the requirements must relate to some behavior or circumstance that was revealed by the evidence.").

Conclusion

The evidence supports the trial court's determination that S.D. was a CHINS, and the continuation of home-based counseling was related to Mother's ability to provide an appropriate home for S.D. We affirm.

Affirmed.

NAJAM, J., and BAILEY, J., concur.