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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF: W.D.G., CHILD IN NEED OF SERVICES	)	
A.D.G. (Mother)	)	
Appellant-Respondent,	)	
vs.	)	No. 49A04-0901-JV-22
MARION COUNTY DEPARTMENT OF CHILD SERVICES	)	
Appellee-Petitioner,	)	
and	)	
CHILD ADVOCATES, INC.	)	
Appellee-Guardian ad Litem.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn A. Moores, Judge
The Honorable Scott B. Stowers, Magistrate
Cause No. 49D09-0509-JC-35745

August 10, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant-Respondent A.D.G. ("Mother") appeals from the juvenile court's order suspending her family therapy sessions with her minor son, W.D.G., who had previously been determined to be a child in need of services ("CHINS"). Mother specifically contends that the evidence presented during the November 19, 2008 Placement and Jurisdiction Review Hearing was insufficient to support the court's order. We affirm.

FACTS AND PROCEDURAL HISTORY

On September 12, 2005, the Marion County Department of Child Services ("MCDCS") filed a petition alleging that W.D.G. and his sister A.D.G. were CHINS. The petition specifically alleged as follows:

> On or about September 8, 2005, the [MCDCS] determined by its Family Casemanager [sic] … these children to be [CHINS] because their mother and sole legal, custodian, … believes that her son may be sexually abusing his sister again, and [Mother] feels unable to stop such abuse, if it is occurring. [Mother] is also unable to control her son's behavior at times, as he hits, kicks and spits on her and threatens her on occasion. Furthermore, [Mother] may have untreated mental issues. On 9/8/05 MCDCS received a report that [Mother] was suicidal. [Mother] was transported to Community North Hospital for evaluation; she has not yet been released. The family has previous CPS history with this agency. A prior CHINS was filed in March of 2003 due to neglect.

Appellant's App. p. 64. Mother admitted to the allegations contained in the CHINS petition on December 1, 2005, and the juvenile court entered a disposition order finding the children

to be CHINS on January 3, 2006. Following the dispositional hearing, W.D.G. was placed in therapeutic foster care, and A.D.G. was returned to Mother's care.

Over the course of the next two years, placement review hearings were held regularly, and W.D.G. was moved several times before eventually being placed in a residential facility called the Children's Campus in Mishawaka. During W.D.G.'s placement at Children's Campus, Mother participated in visitation and therapy. Initially, Mother made "no real progress" in "being able to help [W.D.G.] open up and address his problems," but eventually Mother became more up-front and honest about acknowledging some issues that had occurred in the past. Appellant's App. p. 258.

By June of 2008, W.D.G. had progressed to the point where MCDCS concluded that placement in the Evans House, a group home in Indianapolis, was in W.D.G.'s best interest. Upon W.D.G.'s placement in Evans House, Mother agreed, *inter alia*, that she would acknowledge W.D.G.'s sexually maladaptive and abusive history and behaviors; follow W.D.G.'s safety plan to the letter; display positive emotion regulation skills with the team, A.D.G., W.D.G., in the courthouse, at Evans House, with W.D.G.'s mentor, and with the Family Growth Program; and willingly engage in any program, assessment, or class that would increase W.D.G.'s chance of success per the treatment team. Mother was granted visitation with W.D.G. and was instructed to participate in family therapy sessions with W.D.G.

On November 19, 2008, the juvenile court held a placement and jurisdiction review hearing during which it considered a motion by MCDCS to discontinue Mother's family

therapy sessions with W.D.G. During this hearing, Diane Moore, W.D.G.'s therapist and case manager at Evans House, testified in support of MCDCS's motion. Moore testified that she had conducted three family sessions with Mother and W.D.G. Although each of these sessions was scheduled to last for approximately forty-five to fifty minutes, Moore's family therapy sessions with Mother and W.D.G. averaged fifteen to twenty minutes because of Mother's late arrival. Moore further testified that she did not feel that Mother's involvement in the family therapy was a benefit to W.D.G.'s treatment for the following reasons:

> Well for one thing she presents in family therapy late which is breaking essentially a guideline or a social rule and we're working with [W.D.G.] on social relationship skills in addition she's hesitant or refuses to believe that [W.D.G.] has sexually maladaptive behaviors and is very defensive about that so we can't engage in a helpful relationship of how she might help [W.D.G.] to process and work through those behaviors. [H]e hears denial from mom and he feels like it's okay to deny these behaviors. [I]n additional [sic] [W.D.G.] frequently as he does in team meetings will cover his ears when she speaks, cover his eyes um, stoop down, put his jacket over his head and will not listen to what she says. He'll jerk away when she tries to comfort him or touch him um, and he's indicated just not verbally but physically to us that he's just not comfortable in these sessions.

Tr. p. 83-84.

In addition to Moore's testimony regarding the family therapy sessions, Moore also testified about issues stemming from Mother's visitation with W.D.G. and Mother's behavior during DAWN Project team meetings. With regard to Mother's visitation with W.D.G., Moore testified that behavioral problems arise before and after W.D.G.'s visitation with his Mother. Specifically, W.D.G. "becomes sad and withdrawn before and after [visitation and] there are concerning behaviors such as fecal smearing … and he will often times go to his room after he has visited with his mother and sister and [he] has been caught masturbating at

least once if not more after he visits with his mother." Tr. p. 84. A further concern regarding visitation is that during visitation, Mother allegedly engages W.D.G. in a "kissing ritual where they would sit face to face and kiss and talk and kiss and talk for an extended period of time" and allows W.D.G. to kiss his sister on the mouth, both of which are violations of W.D.G.'s safety plan. Tr. p. 85. With regard to Mother's behavior during DAWN Project meetings, Moore testified as follows:

> She, she gets upset and gets loud which is why we had to move them [from] Evans House to DAWN project and why we removed [W.D.G.] because he was, he was being affected by the negative interactions and again as [Mother] pointed out he, he will pull away from her and, and not listen to her and engage in that kind of behavior so we just felt that it probably wasn't appropriate. I, I think we would talk about difficult things for example we discussed that she wanted him to do some interactions in the community more interactions in the community she wanted him to play sports at school and that kind of thing and we were aware that because he's sexually maladaptive that wasn't a good plan for him at that point but she would repeat herself over and over and over again for twenty minutes saying you know some bizarre things but that was the point at which we had to say look he masturbated in a movie theater this is one of the behaviors that we're concerned about that's when she brought up the sweat pants. That the reason some how related that the reason that he masturbated was because his sweat pants were large and then I, I, I can't give you exact but that correlation was made and at that point I asked to end the meeting because it was getting so far off.

Tr. p. 86-87.

In addition to Moore's testimony, the juvenile court considered a monthly progress report from the Children's Bureau of Indianapolis, a private not-for-profit child and family services agency, ("Children's Bureau") which stated:

> It is the belief of the Evans House treatment team that [Mother] is, and has been, the most significant impediment to [W.D.G.'s] therapeutic growth. This request is based on Evans House assessment that removal of the mother as the permanency plan Is [sic] in the best interest of [W.D.G.] and is made after

> attempts to engage with [Mother] positively were unsuccessful. This is the first time in ten years that Evans House has requested that a parent be removed from their child's program. This decision has been made with careful consideration for all involved.

Appellees' App. p. 123.

At the conclusion of the placement and jurisdiction review hearing, the juvenile court granted MCDCS's motion to suspend Mother's family therapy sessions with W.D.G. Specifically, the juvenile court determined that Mother's continued involvement would be detrimental to W.D.G.'s treatment. Mother now appeals.

DISCUSSION AND DECISION

Mother contends on appeal that the evidence presented before the juvenile court was insufficient to support the juvenile court's order suspending Mother's family therapy sessions with W.D.G. We disagree.

Upon review of a juvenile court's order modifying the terms, such as placement or services provided, of an initial CHINS disposition, we consider whether the court's determination is clearly erroneous. *In re T.S.*, 906 N.E.2d 801, 804 (Ind. 2009). This review is implemented on appeal by a two-tiered analysis, considering first whether the evidence supports the findings and then whether the findings support the judgment. *Id*. Findings are clearly erroneous when there are no facts or inferences drawn therefrom that support them. *Id*. A judgment is clearly erroneous if the findings do not support the trial court's conclusions or the conclusions do not support the resulting judgment. *Id*. We will not reweigh the evidence or judge the credibility of the witnesses, but rather view the evidence and its reasonable inferences in a light most favorable to the judgment. *Id*.

Here, the juvenile court heard testimony from Diane Moore, W.D.G.'s therapist and case manager at Evans House. Moore's testimony detailed Mother's inability or unwillingness to arrive for the family therapy sessions on time, Mother's continued denial that W.D.G. exhibits sexually maladaptive behaviors, and Mother's defensive behavior which prohibited the parties from engaging in a "helpful relationship" through which Moore could help Mother learn to assist W.D.G. to process and work through his behavioral issues. Tr. p. 83. Moore further testified that W.D.G. had indicated both verbally and physically that he was uncomfortable with Mother's presence in these sessions. Moore also testified that W.D.G. had behavioral problems which arose just prior to and immediately following visitation with his Mother, and that Mother had behavioral problems during DAWN Project team meetings.

In addition, the juvenile court considered a status report from the Children's Bureau which stated that Mother was believed to be the most significant impediment to W.D.G.'s therapeutic growth and that the exclusion of Mother from future therapy sessions is in W.D.G.'s best interest because attempts to positively engage Mother have been unsuccessful. This status report indicated that the Evans House treatment team had not come to this recommendation lightly and that this was "the first time in ten years that Evans House has requested that a parent be removed from their child's program." Appellees' App. p. 123.

Here, the juvenile court found both Moore's testimony and the status report submitted by the Children's Bureau to be credible and determined that in light of this evidence, Mother's continued involvement in family therapy sessions would be detrimental to

W.D.G.'s therapeutic growth. Upon review, we conclude that the evidence before the juvenile court was unquestionably sufficient to support this determination. We further conclude that the juvenile court's determination that Mother's continued involvement with W.D.G. in family therapy sessions would be detrimental to W.D.G. was unquestionably sufficient to support the court's order suspending Mother's family therapy sessions with W.D.G.

Having concluded, upon review of the merits, that the juvenile court's order suspending Mother's participation in family therapy sessions was not clearly erroneous, we need not consider the State's challenge to the finality of the juvenile court's order. Furthermore, we note that Mother's claim that the juvenile court's order at issue in this appeal terminated all services and effectively institutionalized W.D.G. for life is inaccurate. The juvenile court's order does not terminate all services, but rather explicitly provides that while family therapy sessions between W.D.G. and his Mother are suspended, future visitation, including extended Thanksgiving and Christmas visitation, may be scheduled at the discretion of Evans House. Likewise, the order does not institutionalize W.D.G. for life, but rather provides that because reunification in Mother's home is currently contrary to W.D.G.'s health and welfare, placement should remain in the current group home, the Evans House, with the plan that another permanent living arrangement be made.

The judgment of the juvenile court is affirmed.

BAILEY, J., and VAIDIK, J., concur.