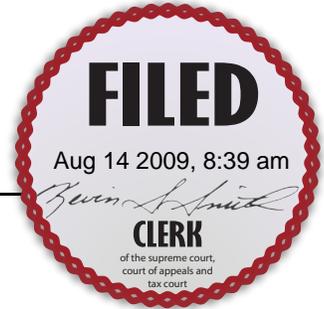


**Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.**

ATTORNEY FOR APPELLANT:

**JOHN R. ROGERS**  
Avon, Indiana



---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

IN THE MATTER OF: K.H. (Child), )  
INDIANA DEPARTMENT OF CHILD )  
SERVICES, )  
Appellant, )  
vs. )  
T.H., (Mother) and J.H., (Father) )  
Appellee )

No. 32A04-0906-JV-329

---

APPEAL FROM THE HENDRICKS CIRCUIT COURT  
The Honorable J.V. Boles, Judge  
Cause No. 32C01-0904-JC-14

---

**August 14, 2009**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Chief Judge**

On April 23, 2009, an emergency detention hearing was held after the Indiana Department of Child Services (DCS) detained K.H., a minor child. At the hearing, the trial court appointed a guardian ad litem (GAL) for K.H. and ordered DCS to pay the GAL fees over DCS's objection. DCS now appeals from that order.

Another panel of this court has recently had occasion to consider this precise issue, finding that the county, rather than DCS, is responsible for paying GAL fees:

Having concluded that Indiana Code section 31-40-3-2<sup>[1]</sup> clearly states that the fiscal body of the county shall appropriate money for use by the courts in providing GAL or CASA services, and that Indiana Code section 33-24-6-4<sup>[2]</sup> supports the proposition that the burden of financially supporting GAL and CASA programs lies with the county, we conclude that the trial court erred in ordering DCS to pay the fees associated with the services provided by the GALs in the

---

<sup>1</sup> Indiana Code section 31-40-3-2 provides that “[t]he fiscal body of the county shall appropriate money from: (1) the [GAL] fund; or (2) the court appointed special advocate [(CASA)] fund; to the juvenile courts of the county for use by the courts in providing [GAL] or [CASA] services and the costs of representation for the [GALs] or [CASAs].”

<sup>2</sup> As summarized by the N.S. court, Indiana Code section 33-24-6-4 provides that

the division of state court administration may establish an office of GAL and CASA services, which the General Assembly may appropriate funds to, as it sees fit. If the General Assembly chooses to appropriate funds to the GAL and CASA services office, the division of state court administration shall provide matching funds to counties that implement and administer a GAL or CASA program. Thus, the State's duty to provide matching funds to Indiana counties to help supplement their GAL or CASA programs is contingent upon a decision by the General Assembly to fund the office of GAL and CASA services. We also find it instructive that Indiana Code section 33-24-6-4 provides for “matching funds” to help “supplement” the funds which are appropriated or collected by the county to finance services provided by GALs or CASAs. The General Assembly's use of the terms “matching funds” and “supplement” suggests, in harmony with our interpretation of Indiana Code section 31-40-3-2, that the General Assembly intended for the onus of financial support for GAL and CASA programs to lie with the county, and not the State.

N.S., 908 N.E.2d at 1182 (internal citations omitted) (emphases in original).

instant matters. In addition, we recognize the distinct roles of each of our three branches of government and thus leave to the legislative branch the question of whether, in light of the trend toward State funding of child welfare costs, the costs associated with GALs and CASAs should be shifted to the State. Under our current statutory scheme, however, it is clear that the burden of paying for services rendered by GALs or CASAs should be attributed to and paid for by the county.

In re N.S., 908 N.E.2d 1176, 1183 (Ind. Ct. App. 2009). We agree with the N.S. court's resolution of this issue, and find that the trial court herein erred by ordering DCS, rather than Hendricks County, to pay the GAL fees.

The judgment of the trial court is reversed and remanded for further proceedings.

FRIEDLANDER, J., and RILEY, J., concur.