

Children's Law Center of Indiana



CHINS

3/13/12

In **In Re T.N.**, 963 N.E.2d 467 (Ind. 2012), the Court remanded the case to the trial court for a fact-finding hearing as to Father. DCS filed a CHINS petition on August 16, 2010, alleging that the fourteen-year-old child was not being provided appropriate supervision by the Parents. Specifically, DCS alleged that: (1) Mother had allowed the child's boyfriend to sleep at the home, which resulted in the child's pregnancy and giving birth at age fourteen; and (2) Father had untreated substance abuse and mental health issues and did not take medications to address his diagnosed mental health needs. In November 2009, Mother had kicked the child out of the house because the child was arguing with Mother's boyfriend. Since that time, the child has bounced back and forth between Mother's house and Father's house. At the CHINS initial hearing, the child was residing with Father. Shortly after the initial hearing, DCS requested the child be removed from Father's care because she was not enrolled in school. Father objected to removal; Mother agreed with removal; and the child requested foster care placement. In November 2010, a fact-finding hearing was held, at which Mother notified the trial court that she was prepared to make an admission to the CHINS allegations. Father's counsel objected to CHINS status being granted on any admission that Mother would make, adding that the parties share joint legal and physical custody and Father "needs to be able to participate in trial." The trial court told Father he could offer his objections to any services at a contested dispositional hearing, then found the child to be a CHINS and proceeded to a contested dispositional hearing. Father appealed the CHINS adjudication and the Court of Appeals found the trial court violated Father's due process rights and reversed the decision. **T.N. v. Indiana Dept. of Child Services**, 954 N.E. 2d 519 (Ind. Ct. App. 2011). The Court granted transfer on the request of DCS.

The Court held that the trial court erred in not conducting a contested fact-finding hearing that was requested by Father and, thus, violated his due process rights. *Id.* at 469. Quoting its decision in **In Re K.D.**, 962 N.E. 2d 1249, 1259 (Ind. 2012), the Court opined that the failure to provide a fact-finding hearing for Father deprived him of due process at the CHINS adjudication stage, and he was thus "sent through one barrier between him and DCS having the statutory authority to file a termination of parental rights petition" without the opportunity to even challenge the evidence. *T.N.* at 469. The Court concluded that

Whenever a trial court is confronted with one parent wishing to admit and one parent wishing to deny the child is in need of services, the trial court shall conduct a fact-finding

hearing, assuring due process to all parties. It is ultimately in the child's best interest that the parents are given due process at all stages of the proceeding.

Id.