

Children's Law Center of Indiana



Delinquency

05/07/2008

In **R.E.I. v. State**, 885 N.E.2d 93 (Ind. Ct. App. 2008) the Court affirmed the juvenile court's order requiring the juvenile to register as a sex offender. In 2002, the juvenile admitted to committing three acts of what would be class B felony child molestation if committed by an adult and was ordered a ward of the Department of Correction (DOC) to be followed by probation. On August 9, 2004, the DOC discharged the juvenile and placed him on formal probation. On December 29, 2005 and March 31, 2006, when the juvenile was nineteen years old and while the juvenile was on probation, the State file petitions to register the juvenile as a sex offender. In May 2006, the parties agreed that the juvenile would submit to a psychological evaluation and the juvenile court continued the matter at the juvenile's request. In October 2006, the juvenile objected that the juvenile court did not have jurisdiction because jurisdiction had not been reinstated after his release from the DOC. The juvenile court found that it did have jurisdiction and set an evidentiary hearing. The juvenile failed to appear for evidentiary hearings on March 7 and 14, 2007, and at a June 20, 2007 hearing argued that the juvenile court lacked jurisdiction because he had turned twenty-one years old on April 1, 2007. The juvenile's objection was overruled and his interlocutory appeal was denied. Following an evidentiary hearing, the juvenile court issued findings of fact and ordered the juvenile to register as a sex offender. On appeal, the juvenile argued that the juvenile court did not have jurisdiction because it improperly reinstated jurisdiction after he was released from the DOC and because he was twenty-one years old when the evidentiary hearing was held and the order was issued.

The Court ruled that the juvenile court had jurisdiction without first reinstating it because (1) the juvenile was on probation at the time the State filed the petitions to register the juvenile as a sex offender; (2) the motion to reinstate jurisdiction required by IC 31-30-2-3 is to be used "for the purpose of modifying ... the court's original disposition decree," not for addressing the State's motion that a juvenile be placed on the sex offender registry; and (3) pursuant to IC 11-8-8-5, the State could not initiate sex offender registration proceedings until the juvenile was discharged from a facility by the DOC, inasmuch as he could not be considered a "sex offender" until that time. *Id.* at 95-96.

The Court concluded that the juvenile court had jurisdiction over the juvenile when it held the evidentiary hearing and issued the sex offender registry order despite the juvenile's age because the juvenile's own conduct thwarted the juvenile court's attempts to complete the required proceedings before his twenty-first birthday. *Id.* at 97.