

# Children's Law Center of Indiana



## Delinquency

01/12/2009

In **T.K. v. State**, 899 N.E.2d 686 (Ind. Ct. App. 2009), the Court affirmed the trial court's dispositional order ordering wardship of the juvenile to the Department of Correction (DOC) for his commission of what would be Class B felony child molesting if committed by an adult. On May 14, 2008, the juvenile who was fourteen years old, inserted his fingers in and licked the vagina of his younger sister who was under fourteen at the time. Following the filing of a delinquency petition alleging two counts of Class B felony child molesting and one count of Class C child molesting if committed by an adult, on July 9, 2008, pursuant to an agreement with the State, the juvenile admitted to one count of having committed what would be Class B felony child molesting if committed by an adult, and the State dismissed the other two counts in exchange for the delinquent's acquiescence to a commitment to DOC. On July 10, 2008, the trial court issued its dispositional order, ordering wardship of the juvenile to DOC and recommending that his "length of stay be sufficient to ensure that when he/she is returned to the community he/she will no longer represent a danger to the community." The juvenile appealed, contending that the trial court had abused its discretion in order commitment to DOC.

**Because the juvenile was never a defendant and his appeal is not a criminal appeal, Rule 7, by its plain language, does not apply.** *Id.* at 688. The juvenile argued that his disposition was inappropriate pursuant to Indiana Appellate Rule 7(B) which allows the appellate court to "revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." The Court noted that (1) proceedings in juvenile court are civil proceedings, not criminal in nature and that an act of juvenile delinquency is not a crime; and (2) Rule 7(A) provides that a defendant in a Criminal Appeal may appeal the defendant's sentence. *Id.* at 687-88 (citation omitted).

**The trial court had no discretion in the location of the juvenile's placement, inasmuch as once it accepted the plea agreement, it was bound by its terms.** *Id.* at 688. The Court noted that (1) once a trial court has accepted a plea agreement in a juvenile proceeding, it is bound by the terms of that agreement; (2) here, the agreement was that the State would dismiss two allegations in exchange for the juvenile's agreeing to a DOC commitment; (3) the trial court's order was precisely in accord with that agreement; and (4) the trial court simply had no discretion. *Id.* (citation omitted).

**The trial court did not order that the juvenile's commitment to DOC extend beyond his eighteenth birthday and did not otherwise abuse its discretion in its disposition of the case.** *Id.* at 688. The Court observed that the record did not support the juvenile's contention that the trial court ordered the juvenile's commitment to DOC extend beyond his eighteenth birthday.