



## Delinquency

12/30/2005

In **R.B. v. State**, 839 N.E.2d 1282 (Ind. Ct. App. 2005), the Court affirmed the juvenile court's order adjudicating the juvenile a delinquent for truancy. In the fall of 2004, the delinquent was an eighth grader at T.C. Howe Academy in Indianapolis. In November 2004 he was charged with the status offense of truancy for violating the compulsory school attendance law. At the denial hearing, held in March 2005, the State introduced a sworn, certified affidavit showing that the juvenile had twenty-three full-day unexcused absences by the end of the fall semester. The juvenile court adjudicated the juvenile a delinquent for truancy and placed him on probation with the requirements, among others, of sign in and sign out sheets at school, written medical excuses for absences or tardies, and a 7:30 p.m. curfew on weekdays. The juvenile appealed, raising the issue of whether the evidence was sufficient to sustain his adjudication.

**Juveniles may only be adjudicated delinquent for status offenses, in accordance with I.C. 31-37-2-1, if they committed one of the delinquent acts set forth in I.C. 31-37-2 and the juvenile court finds that the juvenile is in need of care, treatment, or rehabilitation.** N.J.R. v. State, 439 N.E.2d 725, 727 n. 4 (Ind. Ct. App. 1982). R.B. at 1284. The Court noted that one of the acts set forth in I.C. 37-37-2 is truancy, and that I.C. 37-37-2-1 provides:

- A child is a delinquent child if, before becoming eighteen (18) years of age, the child
- (1) commits a delinquent act described in this chapter; and
  - (2) needs care, treatment, or rehabilitation that:
    - (A) the child is not receiving;
    - (B) the child is unlikely to accept voluntarily; and
    - (C) is unlikely to be provided or accepted without the coercive intervention of the court.

The Court opined that, to support a true finding, there must be sufficient evidence for the juvenile court to determine both prongs of the inquiry: (1) that the juvenile committed the act of truancy and (2) that he also needed care, treatment, or rehabilitation. The Court disagreed with the juvenile's argument that the juvenile court made no finding under the second prong "to the extent that he suggests a particular finding must be made." Citing G.N. v. State, 833 N.E.2d 1071, 1075-77 (Ind. Ct. App. 2005), the Court held that the sworn, certified affidavit regarding the juvenile's attendance record was sufficient to show that the juvenile committed the act of truancy.

**Where a juvenile’s absence from school rises to the level of a delinquent act, it follows that the need to be in school on a regular basis is the very care, treatment, or rehabilitation contemplated by I.C. 31-37-2-1. R.B. at 1285.** The Court set forth the rules of statutory construction and noted that I.C. 20-33-2-1 provides: “The legislative intent for this chapter [Chapter 2. Compulsory School Attendance] is to provide an efficient and speedy means of insuring that students receive a proper education whenever it is reasonably possible.” The Court noted that a poor attendance record like the juvenile’s in this case implicitly indicated that this need was not being met, was not going to be accepted by the child, and was unlikely to be provided or accepted without the coercive intervention of the court. Further, the Court held that the juvenile court’s recognition of the juvenile’s need of care, treatment, or rehabilitation was indicated by the court’s statement made while discussing the juvenile’s disposition that, “The goal here [juvenile] is to make sure that you get in school.” Id.