

Children's Law Center of Indiana



Delinquency

8/17/11

In C.S. v. State, 953 N.E.2d 1144 (Ind. Ct. App. 2011), the Court reversed the child's delinquency adjudication for violating the compulsory school attendance law. The child, a sophomore at North Putnam High School, presented a number of issues for the school faculty and administration regarding his attitude, academic performance, and hygiene. The child had one full-day, unexcused absence, was marked absent without excuse for five class periods, and was tardy twelve times during the fall semester. The child's mother grounded him upon learning about the tardiness. Thereafter, the child incurred no further tardy or unexcused absences on his attendance record during the fall semester. On November 29, 2010, the juvenile court authorized the State to file a delinquency petition alleging that the child violated the school attendance law. The child denied the petition, and the juvenile court found, after a fact-finding hearing, that the child violated attendance law. The child was sentenced to six months formal probation, and appealed the delinquency finding.

The Court found that there was insufficient evidence that the child was in need of care, treatment, or rehabilitation, a required element in order to be adjudicated as a delinquent in violation of the school attendance law. Id. at 1147. The Court opined that a two-prong test must be implemented for juvenile status offenses such as violation of the compulsory school attendance law. Id. at 1146. Citing R.B. v. State, 839 N.E.2d 1282, 1284 (Ind. Ct. App. 2005), the Court observed that a juvenile may be adjudicated delinquent for a status offense only if the child committed a proscribed delinquent act *and* the court finds that the child is in need of care, treatment, or rehabilitation. C.S. at 1146. The child contended that the State failed to prove he was in need of care, treatment, or rehabilitation that he was not receiving, that he was unwilling to accept voluntarily, and that was unlikely to be provided or accepted without the coercive intervention of the court, as provided by IC 31-37-2-1. The State asserted that the child's violation of the compulsory attendance law "implicitly show[s] that he was in need of care, treatment, and rehabilitation." Id. The Court noted the holding in R.B., 839 N.E.2d 1285, that when an excessive amount of absences has been proven, the need of care, treatment, or rehabilitation may be inferred and that the need to be in school on a regular basis was the very care, treatment, or rehabilitation contemplated. C.S. at 1146-47. The Court distinguished the child's case, where he had one unexcused absence, from the situation in R.B., where there were twenty-three unexcused absences. C.S. at 1147. The Court said that, in the absence of any other evidence that the child was in need of care, treatment, or rehabilitation regarding school

attendance, the Court cannot infer such need from a single unexcused absence. Id. The Court said the evidence shows that the child was absent without excuse for one full school day, missed at least part of five additional class periods, and was tardy twelve times. Id. The child's mother was cooperative with the school when told about his attendance issues and took disciplinary actions at home. Id. Thereafter, the child was no longer absent or tardy. Id. The Court concluded that there was insufficient evidence presented to support the child's delinquency adjudication. Id.