

Children's Law Center of Indiana



CHINS

3/24/16

In **In Re D.W.**, 52 N.E.3d 839 (Ind. Ct. App. 2016), *trans. denied*, the Court dismissed Mother's appeal of the trial court's order terminating her visitation with her child and denying her motion to modify the permanency plan. *Id.* at 842. Mother's three-year-old child was placed in foster care and found to be a CHINS in February 2012. The CHINS petition alleged that Mother had been arrested and charged with four felony counts of criminal confinement, two felony counts of battery, and six felony counts of neglect of a dependent. The charges apparently related to another of Mother's children. In November 2012, the trial court suspended Mother's visitation with the child. The trial court changed the permanency plan to termination of parental rights in February 2013. After the permanency plan continued to be termination of parental rights at the December 2013 permanency hearing, Mother moved for modification of the permanency plan, reinstatement of visitation, and a bonding assessment. After multiple hearings, the trial court denied Mother's motions and ordered cessation of all parenting time, and ordered counsel to coordinate with the court for a hearing on the termination petition. Mother filed a notice of appeal in July 2015, indicating that the appeal was interlocutory. In September 2015, Mother amended her notice of appeal to indicate that she was appealing a final judgment.

The Court held that a change in the permanency plan from reunification to termination of parental rights is not a final, appealable judgment. *Id.* at 841. Mother argued that **In Re E.W.**, 26 N.E.3d 1006 (Ind. Ct. App. 2015), wherein the Court held that a change in the permanency plan from reunification to Another Planned Permanent Living Arrangement (APPLA) was a final, appealable judgment, should control. The Court determined that **E.W.** was distinguishable, reasoning that a plan of APPLA makes any question of termination all but moot and has the effect of a final judgment with respect to the child's relationship to the parents. **D.W.** at 841-42. Finding that the change in permanency plan was not a final, appealable judgment, the Court concluded that it lacked subject matter jurisdiction to hear Mother's appeal. *Id.* at 842.