

Children's Law Center of Indiana



Termination of Parental Rights (TPR)

12/10/2008

In ***In Re H.T.***, 911 N.E.2d 577 (Ind. Ct. App. 2009), the Court reversed the trial court's termination of Mother's parental rights. Marion County DCS (MCDCS) filed a petition for involuntary termination of mother's parental rights on November 8, 2007. Mother failed to appear in person or by counsel at any of the initial hearings which were set for November 8, 2007, January 16 and January 31, 2008. Mother was served with notice of the termination proceedings by publication in a local newspaper of general circulation on February 20, 27, and March 5, 2008. Mother failed to appear in person or by counsel at the fact-finding hearing on March 28, 2008, at which evidence was presented of efforts to notify Mother of the "termination proceedings." On the same day, the trial court terminated Mother's parental rights. Mother appealed.

Inasmuch as MCDCS failed to provide Mother with essential information including the date, time, and location of the termination hearing, Mother's statutory right to notice of the termination hearing pursuant to IC 31-35-2-6.5 was fatally compromised. *Id.* at 580-81. The Court observed: (1) IC 31-35-2-6.5(b) requires the person or entity that filed a termination petition to send notice of the termination hearing to the parent at least ten days prior to the hearing date; (2) compliance with the statutory procedure of the juvenile code is mandatory to effect termination of parental rights; (3) thus, Mother was entitled to notice as to the date, time, and location of the termination hearing ten days before it occurred; and (4) MCDCS not only failed to provide Mother with this essential information, but also stated in the only notice provided to Mother, that she had "until April 1st, 2008" to respond to the complaint before her parental rights "may" be terminated. *Id.*