

Children's Law Center of Indiana



CHINS

(Child Abuse Reporting)

9/11/15

Sprunger v. Egli, 44 N.E.3d 690 (Ind. Ct. App. 2015), is a medical malpractice case in which the Court affirmed the trial court's entry of summary judgment in favor of the child's physician. *Id.* at 695. Mother had left her children in the care of her cousin (Cousin) in 2008. When the child was just over one year old, a CHINS petition was filed in December 2008, and the child was adjudicated a CHINS due to Mother's substance abuse. The juvenile court ordered the child to remain in the care of Cousin under DCS supervision. During the child's placement with Cousin, Dr. Egli examined the child several times. Dr. Egli's examination in December 2008 revealed that the child was within normal limits, but in the following months, the child experienced lacerations, bruising, hair loss, and a fractured arm. Dr. Egli informed DCS of the child's condition, but also stated that he did not suspect abuse. Dr. Egli was concerned that there might be a medical reason for the child's bruising, and referred the child to a pediatric oncologist at Riley Hospital. The oncologist ordered tests for coagulation disorders and leukemia, but all of the test results were normal. The oncologist believed the child's injuries were likely caused by "the banging of her head against the crib while she [was] asleep". Less than two weeks after the CHINS adjudication, the sixteen-month-old child was found dead at Cousin's home. Post-mortem pictures showed that the child had extensive facial bruising, the autopsy revealed injuries consistent with blunt force trauma to the head, and the coroner ruled that her death was a homicide.

Mother filed a medical malpractice action against Dr. Egli, alleging that he had failed to diagnose and report child abuse. The medical malpractice review panel issued its opinion, unanimously deciding that the evidence submitted did not support the conclusion that Dr. Egli failed to meet the appropriate standard of care. Mother then filed a complaint for medical malpractice. Dr. Egli moved for summary judgment, asserting that Mother's theory of liability was that Dr. Egli allegedly failed to report child abuse, but Indiana law does not recognize a private, civil action for failure to report child abuse. Mother responded that her claim was not premised on a failure to report abuse, but rather on a failure to make a correct diagnosis. The trial court concluded that Mother was essentially alleging a failure to report child abuse, a cause of action not recognized in Indiana. The trial court granted summary judgment in favor of Dr. Egli, and Mother appealed.

The Court found that Mother's medical malpractice claim was inseparable from a claim for failure to report child abuse for which Indiana does not recognize a private cause of

action; therefore, summary judgment in favor of Dr. Egli was proper. Id. at 694-5. The Court observed that, when a civil tort action is premised upon the violation of a duty imposed by a statute, the initial question is whether the statute confers a private right of action. Id. at 693. Citing Borne ex rel. Borne v. Northwest Allen County School Corp., 532 N.E.2d 1196, 1203 (Ind. Ct. App. 1989), *trans. denied*, the Court said that Indiana's reporting statutes do not explicitly provide a private right of action, and the Court has previously held that the legislature did not intend that a private right of action be implied. Sprunger at 693. The Court disagreed with Mother's contention that predicated the claim on medical malpractice transformed the claim into something other than an attempt to assert a private right of action for failure to report abuse. Id. at 694. The Court addressed a similar claim in C.T. v. Gammon, 928 N.E.2d 847 (Ind. Ct. App. 2010), in which it held that Indiana does not recognize a private right of action for failure to report child abuse, and affirmed the trial court's entry of summary judgment in favor of the doctor. Sprunger at 694. The Court found that Mother's claim rested on more than a misdiagnosis of the child's injuries, but inescapably rested on the additional premise that, had the misdiagnosis not occurred, Dr. Egli would have reported child abuse. Id. The Court concluded that Dr. Egli's alleged failure to report child abuse was logically inseparable from his alleged failure to diagnose it. Id.