



CHINS

5/5/20

In **Matter of R.L.**, 144 N.E.3d 686 (Ind. 2020), the Court reversed the trial court's decision and dismissed the CHINS petition with prejudice; the Court held that Mother's motion to dismiss the second CHINS petition should have been granted, because under the framework set forth by **Matter of Eq.W.**, 124 N.E.3d 1201 (Ind. 2019), the subsequent petition was barred by the doctrine of claim preclusion. Id. at 686.

Mother and Father are the parents of R.N.L. ("Child") and another minor child, J.L. At the time of Child's birth, J.L. was not in the care of the parents because of a CHINS substantiation. Five days later, DCS filed a CHINS petition ("2017 CHINS") regarding Child, citing ongoing issues with J.L.'s CHINS case and concerns about the parents' abilities to care for Child. Child was removed from the home and placed in foster care with J.L. The factfinding hearing in J.L.'s CHINS matter was held, and on March 2, 2019, the juvenile court denied and dismissed the CHINS petition. Shortly thereafter, the DCS case manager contacted Mother and requested a home visit. Mother denied the case manager's request and stated that the home was not safe for a baby. In response, the DCS case manager "detained" Child with her foster family and filed a new CHINS petition on March 7, 2018 ("2018 CHINS"). In this filing, the FCM noted Mother's claim that the home was unsafe for a baby, along with other allegations relating to Mother's cooperation and progress in the previous CHINS case, Mother's mental health, and domestic violence allegations between the parents. Mother filed to dismiss this petition based on res judicata, arguing that all claims that were included in the 2017 CHINS petition (or could have been included) were barred due to that petition's dismissal. After two days of factfinding that included Mother's objections to any evidence that preceded the filing of the 2018 petition, the juvenile court granted the CHINS. In its finding, the trial court relied upon Mother's lack of cooperation and progress in services during the 2017 CHINS.

In the first iteration of the appellate case, prior to the **Matter of Eq.W.** opinion being issued, the Court of Appeals held that the juvenile court erred when it failed to dismiss the claims made by DCS in the 2018 CHINS petition which had already been litigated or could have been litigated in the 2017 CHINS; the Court remanded the matter for further consideration of the second CHINS case without any reference to the prior CHINS case. However, shortly after the **R.L.** Court issued this opinion, the Indiana Supreme Court issued the opinion of **Matter of Eq.W.**, 124 N.E. 1201, 1211 (Ind. 2019), which held that doctrine of res judicata applies in CHINS proceedings, but that dismissal on res judicata grounds does not mean DCS is permanently barred from filing another CHINS petition, or from using a parent's past acts or omissions as evidence. DCS must demonstrate that the subsequent petition contained new allegations of conduct that took place after the dismissal of the prior proceedings.

Since the time to petition for rehearing had not yet lapsed, DCS filed a petition for rehearing based on the Matter of Eq.W. opinion, and the R.L. Court granted this petition. In the second iteration of The Matter of R.L., 133 N.E.3d 173 (Ind. Ct. App. 2019), the Court of Appeals vacated its prior judgment and affirmed the trial court, holding that pursuant to Eq.W., DCS was not precluded from relying on evidence of Mother's prior conduct in bringing a subsequent CHINS petition. Mother sought transfer, which the Indiana Supreme Court granted, thereby vacating the Court of Appeals opinion. Mother argued that the trial court should have granted her motion to dismiss the 2017 CHINS petition because it was barred by claim preclusion; Mother alleged that the problems alleged in the second petition were or could have been litigated in the first petition, and that any new allegations of fact in the 2018 CHINS petition were not material. Id. at 688. DCS argued that claim preclusion was inapplicable in this case because the 2018 CHINS petition introduced new allegations of material fact, and those new allegations, combined with Mother's previous problems, would allow the 2018 CHINS petition to survive a motion to dismiss. Id.

Although Matter of Eq.W. allows DCS to utilize past actions of parents in new CHINS filings, it also stands for the principle that piecemeal litigation of a CHINS case is not permissible, and that repeated CHINS filings by DCS are ripe for potential procedural abuse of the child welfare system. Id. at 689. In order to address Mother's and DCS's arguments, the Court examined its ruling in Matter of Eq.W., 124 N.E. 1201, 1211 (Ind. 2019). The Court opined that Matter of Eq.W. prevents DCS from being able to piecemeal litigate a CHINS case with multiple CHINS petitions until it gathers enough evidence in order to succeed. Id. at 688. The Court examined again the four essential elements of claims preclusions in CHINS proceedings: "(1) The former judgment must have been rendered by a court of competent jurisdiction; (2) The former judgment must have been rendered on the merits; (3) The matter now in issue was or might have been determined in the former suit; and (4) The controversy adjudicated in the former suit must have been between the parties to the present action or their privies." Id. (Eq.W. and other internal citations omitted). The application of res judicata is not limitless, in part because DCS must necessarily rely on past actions of parents in order to provide a complete picture in a CHINS proceeding; therefore, to balance these two competing matters, the Eq.W. Court held that any subsequently filed CHINS petition "must include new allegations of material fact separate from what was available to DCS to use at the original fact-finding hearing" that "took place in time after the relevant CHINS petition was dismissed." R.L. at 688; Eq.W. at 1211. The R.L. Court noted that Eq.W. and its holding was in line with many courts across the nation. R.L. at 689. The Court lastly noted that Eq.W. cautioned courts against turning a blind eye to this strategy of piecemeal litigation, as it undermined the confidence in the State's child welfare system. Id.

The trial court erred in failing to grant Mother's motion to dismiss the second CHINS filing; the 2018 CHINS petition was barred by the doctrine of claim preclusion. Id. at 690-91. The Court opined that the 2018 CHINS petition almost entirely duplicated or relied on matters that should have been determined in the first CHINS petition. Id. at 690. These included the allegations of a separate concurrently pending CHINS petition, Mother's non-engagement in services in that case, Mother's failure to follow through with treatment, and domestic violence between Mother and Father. Id. DCS had failed to carry its burden on these allegations in the first petition, and it could not now succeed by duplicating them in a second petition. Id. The

Court was also troubled by the manner in which the 2018 CHINS petition came about, noting that Mother did not know that the first CHINS petition was dismissed or that the child should have been returned to her care, but that the FCM was most assuredly aware of these facts. Id. The Court was concerned that Mother’s lack of knowledge and her resulting statements to the FCM were the ultimate basis for the second CHINS petition. Id. Lastly, the Court noted that the purpose of a CHINS petition to protect children, not punish parents, but the tactics employed by DCS in this case would “undermine the confidence parents have in Indiana’s child welfare system.” Id.