



CHINS

6/19/2019

In **In the Matter of M.W.**, 130 N.E.3d 114 (Ind. Ct. App. 2019) the Court dismissed Mother's appeal as moot, as the child was placed with her.

After Mother was told by the judicial officer that she did not need to be present for the factfinding hearing because she was not the offending parent, the trial court adjudicated the child to be a CHNS as to Father and went on to disposition. Mother appeared by telephone from Illinois, where her counsel argued for the trial court to reconsider the probable cause as to Mother and to place the child with Mother in Illinois, highlighting recent case law holding that the ICPC does not apply to biological parents. DCS informed the trial court there were no allegations against Mother, but the trial court denied Mother placement and stated that the trial court disagreed with the appellate opinions holding the ICCP did not apply. While Mother appealed, DCS dismissed the wardship of the child, because Mother completed the ICPC and the child was placed with her.

The Court held that Mother's appeal was moot; although the trial court had disregarded the Court's previous rulings that the ICPC does not apply in cases such as this, Mother had completed the ICPC and the child had been placed with her. Id. at 117-18. On appeal, Mother sought for the Court to set aside the CHINS adjudication and place the child with her. The Court determined that Mother was judicially estopped from asserting this. At the initial hearing Mother agreed that Child was a CHINS and without the adjudication, the relief Mother sought would not have been possible. The Court opined that Mother's real argument is that the trial court should have never required her to complete the ICPC process before placing Child with her. As to this argument, DCS agreed and so did the Court. The Court has made it clear in previous holdings that the ICPC process does not apply in situations where the Child would be placed with a biological parent. The trial court was aware of the holdings of the Court and refused to rule in conjunction with those holdings. The Court cautioned the trial court from behaving in such a manner in the future. Despite the trial court's disregard of previous holdings of the Court, Mother did complete the ICPC and Child has been placed with her. In essence, Mother has received relief for what she asked for on appeal. Thus, the Court dismissed Mother's appeal as it is moot.