



CHINS
3/15/21

In **Matter of D.C., Ma.C. and Mo.C.**, 164 N.E.3d 834 (Ind. Ct. App. 2021), the Court held that even though the Children were under the care of Maternal Grandmother, the coercive intervention of the court is needed until Maternal Grandmother obtains legal authority to care for the Children and act on their behalf; and therefore, the CHINS case should continue.

Mother and Father have three children, D.C. II, born in 2013 and twins Mo.C. and Ma. C., born in 2017. Mother and Father lived with the children, until Mother moved out leaving Father and the children in the home in summer 2019. In October 2019, Maternal Grandmother became concerned about the twins not being properly cared for by Father, so she moved the twins into her home. After leaving the family home, Mother did not financially support the children and only visited the twins at Maternal Grandmother's house a few times a month. DCS filed a petition alleging the Children were CHINS because Mother and Father had neglected the Children and there was domestic violence between them. DCS removed D.C. II from Father's home because they could not locate Mother after Father was arrested. D.C. II was placed with Maternal Grandmother initially and has since been placed with an aunt and uncle. Mother did not appear to the fact-finding hearing and Father appeared telephonically from jail. The family case manager testified communication with Mother had been difficult. Maternal Grandmother testified she didn't know why Mother was not at the hearing and that she had offered Mother a chance to visit the children the week before, but Mother did not respond. The trial court found the Children to be CHINS and ordered Mother and Father to complete a variety of services. A review hearing was held in January 2021. Mother, again, failed to appear and Father was still in jail. According to the Order, neither Mother nor Father complied with the case plan. Mother appealed.

The coercive intervention of the Court is needed to provide legal authority to Maternal Grandmother and ensure the twins' needs are being met. Id. at 837. A CHINS adjudication "requires three basic elements: that the parent's actions or inactions have seriously endangered the child, that the child's needs are unmet, and that those needs are unlikely to be met without State coercion." Id. at 836 quoting In re S.D., 2 N.E.3d 1283, 1287 (Ind. 2014). DCS must prove by a preponderance of the evidence the child is a CHINS. Ind. Code § 31-34-12-3. Mother argued that DCS failed to prove her actions or inactions seriously endangered the twins. Id. at 836. The trial court found Mother abandoned the twins when she left the family home in 2019 and failed to provide for their daily and financial needs thereafter. Id. at 837. While in the care of Maternal Grandmother, Mother only saw the twins a few times a month Id. Additionally, the family case manager relayed the difficulty in contacting Mother, and the court found Mother's failure to attend the fact-finding and review hearings to be consistent with her demonstrated lack of interest in the twins' daily life and care. Id. Mother further argued that DCS failed to prove the twins' needs were unmet and unlikely to be met without intervention because they have been cared for by Maternal Grandmother. Id. The court found that Maternal Grandmother does not have legal authority to care for the twins or act on their behalf by way of guardianship, custody,

or power of attorney; and thus in the absence of the CHINS case, Maternal Grandmother could not seek medical care for the twins, enroll them in school, or keep them should Mother decide to take them. Id. Thus, the Court affirmed the trial court's decision to continue the CHINS case. Id.