



## CHINS

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In **Riddle v. Kahn**, 168 N.E.3d 1017 (Ind. Ct. App. 2021), the Court held there was no evidence that the three doctors who treated Parents' two children while their CHINS case was pending deprived the parents of any constitutional rights, and thus parents could not prevail on their § 1983 claims against the doctors.

In September 2016, DCS removed Mother and Father's 17-year-old girl and 13-year-old boy from their custody due to reports of abuse and neglect. DCS filed a petition in juvenile court to have the Children declared to be CHINS. DCS placed the children with maternal grandmother, and the juvenile court left custody with maternal grandmother following the fact-finding hearing where the Children were determined to be CHINS. After the hearing, maternal grandmother received documentation from DCS specifically noting that she was authorized to seek medical care for the Children as needed while in her custody. In November 2016, maternal grandmother took the boy to the psychologist, who then began regular treatment of the child as a patient until June 2017. Grandmother took the girl to the hospital and reported her attempted suicide, body cutting, and expressions of suicidal ideation. The child was treated by a psychiatrist and team of mental health professions on an inpatient basis. Father testified he was notified of the child's hospitalization shortly after she was admitted for treatment. The psychiatrist recommended 2 medications for depression and anxiety, respectively. DCS petitioned the court for approval to administer the drug to the child and attempted to contact Mother and Father for their approval but did not receive a response. The court granted the petition and counsel for Mother and Father was served notice of the order. Lastly, grandmother took the girl to a family medicine practitioner who prescribed medication to treat the child's heavy, painful menstrual cycles. The doctor advised that the hormone-based medicine is also prescribed in some instances as birth control. DCS petitioned the court for approval of this medication, which was granted. Subsequently, the juvenile court vacated and expunged its original CHINS order because court failed to conclude the fact-finding hearing within the sixty-day statutory period. In February 2019, Mother and Father sued the psychiatrist, the family medicine doctor and the psychologist alleging the doctors violated their parental constitutional rights under the First, Fourth, Fifth, and Fourteenth Amendments by treating the children without their permission; and further complained the doctors conspired with DCS and other parties to deprive them of their parental constitutional rights.

**The doctors did not act under color of state law in treating the children without their consent after the children were removed from parents' custody and thus were not liable under § 1983 for any violation of parents' constitutional rights. Id. at 1018.** The purpose of § 1983 is to deter state actors, and private individuals in collaboration with state officials, from using a badge of authority to deprive individuals of rights guaranteed by the constitution. Id. at 1025. For a private individual to act under color of law, there must be evidence of a concerted effort between a state actor and that individual. Id. To establish § 1983 liability through a conspiracy theory, a plaintiff must demonstrate: (1) a state official and private individual(s)

reached an understanding to deprive the plaintiff of his constitutional rights, and (2) those individual(s) were willing participants in joint activity with the State or its agents. *Id.* Here, all 3 doctors work for private companies and are not employees of the State. *Id.* at 1025, 1026. As to the family medicine doctor, the Court found that there was no evidence that anyone at DCS directed, encouraged or suggested that grandmother select the family medicine doctor, nor was there any evidence that the doctor had ever met grandmother, juvenile court personnel, or any DCS official involved in this case. *Id.* at 1025. Similarly, as to the psychologist who treated the boy, there was no evidence of any communications between the psychologist and DCS's officials, juvenile court personnel, or other state actors. *Id.* at 1026. The basis of the parents' claim against the psychiatrist who treated the girl is that he prescribed medications for their daughter's treatment without their prior consent, thereby damaging their parent-child relationship. *Id.* at 1023. However, the evidence showed Father was personally notified about his daughter's hospitalization and DCS attempted to contact both parents and their attorney after the psychiatrist recommended prescribing medication to the girl. *Id.* Thus, the parents were aware of the psychiatrist's alleged violations, which fell outside the statute of limitations period, and their complaint was accordingly time-barred. *Id.* Parents argument that the statute of limitations does not bar their claims pursuant to the doctrine of continuing wrong doing also failed because his treatment of the girl ended in January 2017 and he had no further contact with the girl, grandmother, DCS officials, juvenile court personnel, or any other state actors.