

INDIANA SUPREME COURT

In the Matter of M.S. (Minor Child in Need of Services); A.C.  
(Mother) v. Indiana Department of Child Services

Matter of M.S. · No. 19S-JC-505 · Decided February 20, 2020

SUMMARY

The Indiana Supreme Court considered whether the statutory 120-day deadline for completing a factfinding hearing in a CHINS proceeding may be extended under Indiana Trial Rule 53.5. The Court held that the deadline may be enlarged when a party establishes good cause for a continuance, distinguishing the statutory provisions governing the initial sixty-day period and the additional sixty-day extension. Because the mother demonstrated good cause based on a discovery dispute and extensive video evidence, the Court affirmed denial of her motion to dismiss.

CASE DETAILS

|                       |                                                                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Indiana Supreme Court                                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Justice David; Chief Justice Rush; Justice Massa; Justice Slaughter; Justice Goff                                                                                                                                                     |
| JURISDICTION          | Indiana                                                                                                                                                                                                                               |
| DECIDED               | February 20, 2020                                                                                                                                                                                                                     |
| DOCKET                | 19S-JC-505                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Mother appealed the trial court's denial of her motion to dismiss a CHINS petition after factfinding concluded more than 120 days after the petition was filed. The Indiana Supreme Court granted transfer from the Court of Appeals. |
| STANDARD OF REVIEW    | Statutory interpretation is reviewed de novo. A trial court's ruling on a motion for continuance is reviewed for abuse of discretion.                                                                                                 |
| PRECEDENTIAL VALUE    | published and precedential                                                                                                                                                                                                            |
| PARTIES               | A.C. (Mother) v. Indiana Department of Child Services                                                                                                                                                                                 |

TOPICS

- family law procedure
- statutory interpretation
- civil procedure
- discovery dispute

## PRACTICE AREAS

family law

civil procedure

juvenile law

## QUESTIONS PRESENTED

1. Whether Indiana Trial Rule 53.5 permits a party to obtain a good-cause continuance that extends CHINS factfinding beyond the 120-day period in Indiana Code section 31-34-11-1(b).
2. Whether the trial court was required to dismiss the CHINS petition because factfinding was completed after the 120-day statutory period.
3. Whether the appeal was moot because M.S. had subsequently been reunified with Mother.

## HOLDINGS

1. Indiana Trial Rule 53.5 permits a party to obtain a continuance beyond the 120-day CHINS factfinding deadline in Indiana Code section 31-34-11-1(b) when the party establishes good cause.
2. The trial court did not err in denying Mother's motion to dismiss because Mother established good cause for the continuance that extended factfinding beyond 120 days.
3. The appeal was not moot because CHINS adjudications have legal implications that may continue beyond the particular proceeding and may be relevant in future CHINS proceedings.

## KEY QUOTATIONS

*“Because our trial rules trump statutes on matters of procedure, Rule 53.5 allows extension of the 120-day deadline in Indiana Code section 31-34-11-1(b) provided a party can show “good cause.”” (Page 8 of 10)*

*“We hold today that, unlike the sixty-day deadline imposed by Indiana Code section 31-34-11-1(a) that may be waived by consent of the parties, the 120-day deadline contemplated by subsection 31-34-11-1(b) may be enlarged only if a party shows good cause for a continuance.” (Page 9 of 10)*

## FACTUAL BACKGROUND

DCS removed M.S. from Mother's care after reports of neglect involving several children, including an incident in which one child suffered a critical injury and later died. DCS filed a CHINS petition on November 14, 2017. Mother sought records from the Danville Police Department concerning the investigation and later requested additional time to review more than 2,000 video recordings, causing factfinding to conclude after the statutory 120-day period.

## PROCEDURAL HISTORY

DCS filed a CHINS petition concerning M.S. The trial court continued factfinding after the parties waived statutory deadlines and after Mother sought additional time to resolve a discovery dispute and review thousands of video recordings. Factfinding concluded after the 120-day period, and the trial court denied Mother's motion to dismiss. The Court of Appeals reversed and remanded for dismissal without prejudice. The Indiana Supreme Court granted transfer, vacated the Court of Appeals opinion, and affirmed the trial court.

## DISPOSITION

affirmed

## CASES CITED

- Matter of M.S., 124 N.E.3d 1234 (Ind. Ct. App. 2019)
- Matter of T.T., 110 N.E.3d 441 (Ind. Ct. App. 2018)
- Matter of J.R., 98 N.E.3d 652 (Ind. Ct. App. 2018)
- Parmeter v. Cass Cnty. Dep't of Child Servs., 878 N.E.2d 444, 448 (Ind. Ct. App. 2007)
- In re K.D., 962 N.E.2d 1249, 1253, 1258 (Ind. 2012)
- Matter of Eq.W., 124 N.E.3d 1201, 1209-10, 1211 (Ind. 2019)
- In re Adoption of B.C.H., 22 N.E.3d 580, 584 (Ind. 2014)
- Gardiner v. State, 928 N.E.2d 194, 196 (Ind. 2010)
- Rodriguez v. State, 129 N.E.3d 789, 793 (Ind. 2019)
- Nicoson v. State, 938 N.E.2d 660, 663 (Ind. 2010)
- Garner v. Kempf, 93 N.E.3d 1091, 1099 (Ind. 2018)
- State v. Bridenhager, 257 Ind. 699, 704, 279 N.E.2d 794, 796 (Ind. 1972)
- Bowyer v. Ind. Dept. of Nat. Res., 798 N.E.2d 912, 917 (Ind. 2003)
- State ex rel. Gaston v. Gibson Circuit Court, 462 N.E.2d 1049, 1051 (Ind. 1984)
- State v. Int'l Bus. Mach. Corp., 964 N.E.2d 206, 209 (Ind. 2012)
- Bushong v. Williamson, 790 N.E.2d 467, 471 (Ind. 2003)
- Matter of J.S., 130 N.E.3d 109, 113 (Ind. Ct. App. 2019)
- F.M. v. N.B., 979 N.E.2d 1036, 1039-40 (Ind. Ct. App. 2012)
- Blackford v. Boone County Area Plan Com'n, 43 N.E.3d 655, 664 (Ind. Ct. App. 2015)
- James v. State, 716 N.E.2d 935, 941 (Ind. 1999)
- Matter of Lawrence, 579 N.E.2d 32, 37 (Ind. 1991)