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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN THE MATTER OF C.W. and S.R., )  
CHILDREN IN NEED OF SERVICES, )

PATRICE ROBERSON, )  
Appellant-Respondent, )

vs. )

No. 49A04-0701-JV-51

MARION COUNTY DEPARTMENT OF )  
CHILD SERVICES, )

Appellee-Petitioner, )

and )

CHILD ADVOCATES, INC., )

Co-Appellee (Guardian Ad Litem). )

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APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Marilyn A. Moores, Judge

Cause No. 49D09-0606-JC-022959-60

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September 25, 2007

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

Patrice Roberson (“Mother”) appeals from the Marion Superior Court’s determination that her children are in need of services (“CHINS”). She raises one issue: whether sufficient evidence supports the CHINS determination. We affirm.

### **Facts and Procedural History**

Mother gave birth to S.R. on May 22, 2006. The Marion County Department of Child Services (“DCS”) received a report that S.R.’s meconium<sup>1</sup> had tested positive for marijuana. As a result, a DCS investigator visited Mother’s home on June 1, 2006. Mother admitted to the investigator that she had smoked marijuana before she was aware that she was pregnant. Mother told the investigator that she stopped using marijuana once she learned of her pregnancy, but that she had used it once since S.R.’s birth. Tr. p. 12. Mother claimed that she never used marijuana in the presence of her children, S.R. and six-year-old C.W., but only on weekends when the children were with their grandmother.

Mother refused to enter into a Service Referral Agreement offered by DCS. On June 6, 2006, DCS requested and was granted permission to file a CHINS petition as to both S.R. and C.W. Following an initial hearing, the trial court ordered the children removed and placed with a relative, with Mother having supervised visitation. At the conclusion of a fact-finding hearing, the trial court adjudicated both S.R. and C.W. as CHINS and ordered the children placed back with Mother on “Temporary In-Home Trial Visit.” Appellant’s App. p. 12. Mother now appeals.

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<sup>1</sup> Meconium is “a dark greenish mass that accumulates in the bowel during fetal life and is discharged shortly after birth.” Merriam-Webster OnLine, <http://www.m-w.com> (last visited Sept. 11, 2007). The Indiana State Department of Health has instituted a Meconium Screening Program for newborns meeting certain criteria. See Indiana State Department of Health Meconium Screening Program, [available at http://www.in.gov/isdh/programs/nbs/MecScrCriteria.htm](http://www.in.gov/isdh/programs/nbs/MecScrCriteria.htm).

## Discussion and Decision

Mother's sole argument is that there is insufficient evidence to support the trial court's CHINS determination. When we review the sufficiency of evidence, we consider only the evidence and reasonable inferences therefrom that are most favorable to the judgment. In re A.H., 751 N.E.2d 690, 695 (Ind. Ct. App. 2001), trans. denied. We neither reweigh the evidence nor reassess the credibility of witnesses. Id. The DCS was required to prove by a preponderance of the evidence that S.R. and C.W. were CHINS according to the statute. In re T.H., 856 N.E.2d 1247, 1250 (Ind. Ct. App. 2006).

Mother argues that DCS presented insufficient evidence to sustain a CHINS finding under Indiana Code section 31-34-1-10, which provides that child is in of services if:

- (1) the child is born with:
  - (A) fetal alcohol syndrome; or
  - (B) any amount, including a trace amount, of a controlled substance or a legend drug in the child's body; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; or
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

Ind. Code § 31-34-1-10 (1998).<sup>2</sup>

Mother repeatedly points out that neither she nor S.R. tested positive for marijuana in urine tests. However, it is undisputed that S.R.'s meconium tested positive for marijuana; thus, he was born with some amount of a controlled substance in his body. See Ind. Code § 31-34-1-10(1)(B). Mother then contends that the DCS failed to establish by a preponderance of evidence that S.R. is need of care, treatment, or rehabilitation that

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<sup>2</sup> Mother does not argue on appeal that insufficient evidence was presented to sustain the CHINS adjudication of C.W. under Indiana Code section 31-34-1-1 (1998 & Supp. 2007).

he is not receiving or is unlikely to be provided without the coercive intervention of the court. See Ind. Code § 31-34-1-10(2).

The DCS investigator testified that Mother admitted to using marijuana before she learned that she was pregnant. Tr. p. 12. The investigator also testified that Mother admitted to using marijuana after S.R.'s birth. Tr. pp. 12, 16. In addition, the investigator testified that Mother refused to participate in services because she felt she was being punished. Tr. p. 13. A neonatologist also testified that the most serious concern for infants testing positive for marijuana "is probably not the marijuana use per [se] but if that is linked to other dangerous behaviors, other drugs." Tr. p. 27. Under the facts and circumstances before us, DCS presented sufficient evidence to support the CHINS determination.

Affirmed.

NAMAM, J., and BRADFORD, J., concur.