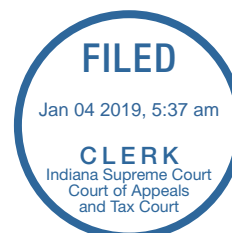


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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### ATTORNEY FOR APPELLANT

J. Clayton Miller  
Jordan Law, LLC  
Richmond, Indiana

### ATTORNEYS FOR APPELLEE

Curtis T. Hill, Jr.  
Attorney General of Indiana

Robert J. Henke  
Deputy Attorney General  
Indianapolis, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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In the Matter of J.K., Child in  
Need of Services

and

C.K. (Mother),  
*Appellant-Respondent,*

v.

The Indiana Department of  
Child Services,  
*Appellee-Petitioner*

January 4, 2019

Court of Appeals Case No.  
18A-JC-1698

Appeal from the Randolph Circuit  
Court

The Honorable Jay L. Toney,  
Judge

Trial Court Cause No.  
68C01-1707-JC-164

**May, Judge.**

[1] C.K. (“Mother”) appeals the adjudication of J.K. (“Child”) as a Child in Need of Services (“CHINS”). She argues the trial court erred when it denied her motion to dismiss. The Department of Child Services (“DCS”) concedes the error and asks that we reverse and remand for dismissal without prejudice of the CHINS petition. Accordingly, we reverse and remand.

## Facts and Procedural History

[2] DCS filed a petition to adjudicate Child as a CHINS on July 18, 2017. Mother filed a motion to dismiss the CHINS case on January 25, 2018, arguing the timeframe for the factfinding hearing had passed. The trial court denied Mother’s motion to dismiss. The trial court held a factfinding hearing on April 12, 2018, and adjudicated Child as a CHINS on June 20, 2018.

## Discussion and Decision

[3] Mother argues the trial court erred when it denied her motion to dismiss the CHINS petition because too many days passed between the filing of the petition and the court’s hearing. DCS concedes the denial was error and asks that we reverse and remand for the trial court to dismiss the CHINS petition without prejudice. We accordingly reverse and remand, instructing the trial court to dismiss the CHINS petition without prejudice. *See, e.g., J.M.F. v. State*, 721 N.E.2d 267, 268 n.1 (Ind. Ct. App. 1999) (appellate court reversed and remanded juvenile’s involuntary commitment based State’s concession

supported by relevant law that trial court violated certain statutory requirements regarding outpatient mental health placements).

## Conclusion

[4] We reverse and remand for the trial court to dismiss the CHINS petition without prejudice.

[5] Reversed and remanded.

Baker, J., and Tavitas, J., concur.