Filed 1/11/18 In re D.L. CA2/6

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re D.L. et al., Persons Coming Under the Juvenile Court Law.	2d Juv. No. B282308 (Super. Ct. Nos. J071090, J071091) (Ventura County)
VENTURA COUNTY HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. R.L., Defendant and Appellant.	

R.L. (Mother) appeals orders of the juvenile court terminating her parental rights to her children D.L. and R., persons coming under the juvenile court law. (Welf. & Inst. Code, §§ 300, subd. (b) & (g), 366.26.[1]) We conclude Mother has not

[1] All statutory references are to the Welfare and Institutions Code unless otherwise stated.

shown that the Ventura County Human Services Agency (HSA) did not comply with the requirements of the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.), or that it failed to make a required inquiry into the Indian heritage of her child R. We affirm.

FACTS

On July 20, 2016, HSA received a report from a police officer that Mother had left her two young boys at home with a man who was "under the influence of a controlled substance." The police were investigating a report that Mother had stolen property. A police officer asked HSA to intervene because the children were now home alone and Mother's "whereabouts" were "unknown."

An HSA social worker entered Mother's residence and discovered that "there was no food in the home" and there was drug paraphernalia "in [Mother's] room." The social worker determined that the home's "physical living conditions were hazardous and immediately threatening to . . . health and safety."

HSA filed juvenile dependency petitions alleging Mother was unable to provide for her children's food, clothing, and shelter due to her "substance abuse." HSA said the "home's hazard's included . . . drug paraphernalia within reach" of the children, trash throughout the house, the house was dirty; and there was a lack of food for the children.

The juvenile court ordered the children "detained in foster care as arranged by [HSA]." It said Mother "has substance abuse issues, including but not limited to methamphetamine."

HSA recommended Mother be bypassed for family reunification services due to her chronic substance abuse history. (§ 361.5, subd. (b)(13).) It said Mother was offered "weekly

supervised" child visitation, but she "has only attended two visits and no showed to all others."

At jurisdiction/disposition hearings, the juvenile court sustained the petitions, bypassed family reunification services, and set section 366.26 hearings. The court found Mother has "a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior treatment for this problem during a three-year period immediately prior to the filing of the petition."

In a report to the juvenile court, HSA said, "[T]he children are comfortable with the current foster parents and they have established a routine in their lives which is stable and healthy. It does not appear that terminating the parent's parental rights would have a negative impact on the children." On April 4, 2017, the court terminated Mother's parental rights.

ICWA

S.N., the father of minor child R., signed a parental notification of Indian status form. He checked the box indicating, "I may have Indian ancestry." He did not fill in the portion of the form requesting information on the name of the "tribe" or the name of the "band."

HSA interviewed S.N. to attempt to obtain information about his claimed Indian heritage. S.N. was in custody at that time. During the interview, S.N. said he had "limited information and did not know which tribe the family was affiliated with." S.N. then "*declined to provide family member contact information* . . . for further research." (Italics added.)

At a juvenile court hearing on July 25, 2016, the juvenile court asked Mother, "Do you know if [S.N.] has any Native American ancestry?" Mother responded, "He shouldn't have any."

HSA obtained information about the children's family members. It prepared an ICWA-030 form and sent it to the

Bureau of Indian Affairs (BIA). That form contained, among other things: 1) the names and birth dates of R. and D.L., 2) the names and birth dates of Mother and S.N., and 3) the name and birth date of S.N.'s mother. HSA indicated on that form that S.N. had not "specified" a tribe, was not enrolled as a member of a tribe, but that he claimed "possible" Indian "ancestry." The HSA ICWA interviewer signed the form and stated under penalty of perjury that she had provided "all information" that she had "about the relatives" of the children. The BIA sent a reply stating the information on the ICWA-030 form did not provide sufficient "information to determine Tribal Affiliation."

An HSA report concluded, "Based on the Agency's knowledge to date, the Agency does not believe the . . . children to be 'Indian Children' as defined by the Indian Child Welfare Act."

On December 12, 2016, the juvenile court held a hearing on ICWA compliance. HSA filed its ICWA compliance reports, the ICWA-030 form and the BIA response. S.N. did not attend the hearing. He was in "local custody." S.N.'s counsel was present. She made no objection to HSA's ICWA reports or the ICWA-030 form. She did not present evidence or make any claim about S.N.'s alleged Indian ancestry. Mother did not attend the hearing. The court found ICWA did not apply. It said HSA has provided "notice" as "required by law."

DISCUSSION

ICWA

Mother contends HSA did not comply with the ICWA requirements. She claims it failed to make a sufficient inquiry about the Indian heritage of her child R. We disagree.

"ICWA defines an 'Indian child' as a child who is either (1) 'a member of an Indian tribe' or (2) 'eligible for membership in an Indian tribe and . . . the biological child of a member of an Indian

tribe.'" (25 U.S.C. § 1903(4).)" (*In re Jeremiah G.* (2009) 172 Cal.App.4th 1514, 1520.)

"'The minimum standards established by ICWA include the requirement of *notice* to Indian tribes in any involuntary proceeding in state court to place a child in foster care or to terminate parental rights "where the court knows or has reason to know that an Indian child is involved."'" (*In re J.L.* (2017) 10 Cal.App.5th 913, 918.) But, "if there is insufficient reason to believe a child is an Indian child, notice need not be given." (*In re Jeremiah G.*, *supra*, 172 Cal.App.4th at p. 1520.)

S.N. checked the box indicating, "I may have Indian Ancestry." But he did not complete the form or provide additional information. Mother suggests checking that box alone was sufficient information to require HSA to make a more sufficient ICWA inquiry and to provide notice to Indian tribes. We disagree.

"In a juvenile dependency proceeding, a claim that a parent, and thus the child, 'may' have Native American heritage is insufficient to trigger ICWA notice requirements if the claim is not accompanied by other information that would reasonably suggest the minor has Indian ancestry." (*In re Jeremiah G.*, *supra*, 172 Cal.App.4th at p. 1516.) A claim that a parent may have Indian ancestry, by itself, is "too vague and speculative to give the juvenile court any reason to believe the minors might be Indian children." (*In re O.K.* (2003) 106 Cal.App.4th 152, 157.) "'"[F]amily lore,"'. . . of possible American Indian heritage does not trigger a social worker's duty to conduct a 'further inquiry' . . . into a child's possible Indian ancestry." (*In re J.L.*, *supra*, 10 Cal.App.5th at p. 923, citations omitted; see also *In re Hunter W.* (2011) 200 Cal.App.4th 1454, 1468; *In re J.D.* (2010) 189

Cal.App.4th 118, 125; *In re Aaron R.* (2005) 130 Cal.App.4th 697, 707-708.)

Here S.N. checked the box, but he did not provide any information about the name of a tribe or a specific relative who had Indian heritage. In the interview he admitted he did not know "which tribe the family was affiliated with," he had little information, and he "*declined to provide* family member contact information . . . ." (Italics added.)

This is similar to the insufficient information a parent provided for ICWA purposes in *In re Hunter W.*, *supra*, 200 Cal.App.4th at p. 1468.) There the parent claimed Indian heritage. But she "could not identify the particular tribe or nation and did not know of any relative who was a member of a tribe." (*Ibid.*) She also did not provide "contact information" for relatives "who could reveal more information." (*Ibid.*) The court held the information the parent provided was "too speculative to trigger ICWA." (*Ibid.*) "[T]he parent could not even identify the tribe the family may have had connections to." (*Ibid.*)

Mother cites *In re Michael V.* (2016) 3 Cal.App.5th 225. But that case is distinguishable. There the parent was able to identify the specific relative who had the Indian ancestry. The parent's social worker told her that this relative was a "full-blood Indian" who had ancestry from "two tribes." (*Id.* at p. 230.) Here, by contrast, S.N. provided no information and he "declined to provide" family contact information. Moreover, here Mother represented to the court that S.N. "shouldn't have any" Native American ancestry. The court in *Michael V.* said, "If the court has reason to know an Indian child may be involved in the pending dependency proceeding but the identity of the child's tribe cannot be determined, ICWA requires notice be given to the [BIA]." (*Id.* at p. 232.)

Here HSA prepared the ICWA-030 form and provided notice to the BIA. There was no information showing that the child (R.) was a member of any Indian tribe or otherwise entitled to tribal membership. HSA determined that S.N. was not a member of any Indian tribe. At the hearing on ICWA compliance, no party made any objection to the ICWA-030 form or HSA's ICWA reports. At that hearing S.N.'s counsel made no claim that S.N. had Indian ancestry. Moreover, Mother has not shown why the court could not seriously question the credibility of S.N.'s claims given: 1) her prior representation to the court that S.N. "shouldn't have any" Indian ancestry, and 2) S.N.'s lack of information and his refusal to cooperate with HSA.

Mother suggests the juvenile court should have required HSA to conduct an additional ICWA inquiry. But, "the court has no obligation to make a further or additional inquiry in the absence of any evidence supporting a reasonable inference that the child might have Indian heritage." (*In re Aaron R.*, *supra*, 130 Cal.App.4th at p. 708.) Speculation alone does not suffice. (*In re J.D.*, *supra*, 189 Cal.App.4th at p. 125.) As to Mother's remaining contentions, we conclude she has not shown grounds for reversal.

In particular, we are aware of no case that holds that section 309, subdivision (e), concerning placement of a child first removed at the time of detention, has anything to do with ICWA.

DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J. PERREN, J.

Tari L. Cody, Judge

Superior Court County of Ventura

Christopher Blake, under appointment by the Court of Appeal, for Defendant and Appellant.

Leroy Smith, County Counsel, Jaclyn Smith, Assistant County Counsel, for Plaintiff and Respondent.