

12/13/19 In re J.H. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.H. et al., Persons Coming
Under the Juvenile Court Law.

B298795

(Los Angeles County
Super. Ct. No. 17CCJP02142)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.H.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Nichelle L. Blackwell, Juvenile Court Referee. Conditionally reversed and remanded with directions.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of County Counsel, Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and David Michael Miller, Deputy County Counsel, for Plaintiff and Respondent.

Margaret Lee for the Minors.

J.H. (Father) appeals from a juvenile court order appointing legal guardians for his son J.H. and daughter J.K. (Minors). Father contends the Los Angeles County Department of Children and Family Services (DCFS) did not satisfy its inquiry and notice obligations under the Indian Child Welfare Act (ICWA) and related California law in connection with his claim of possible Indian heritage. Father, DCFS, and the Minors have stipulated to a remand to the juvenile court to permit proper compliance with ICWA and related California law. We accept the parties' stipulation.

Our ability to accept a stipulated reversal and remand in the dependency context is discussed in *In re Rashad H.* (2000) 78 Cal.App.4th 376, 379-382. The present case involves reversible error because the parties agree, and we concur, there was noncompliance with ICWA and related California provisions. (*In re Michael V.* (2016) 3 Cal.App.5th 225, 235-236; see also *In re K.R.* (2018) 20 Cal.App.5th 701, 706-709.) Because this case would be subject to reversal to permit compliance with ICWA and corresponding California statutes and rules absent the parties' stipulation, the stipulated disposition advances the interests identified by Code of Civil Procedure section 128, subdivision (a)(8). That is to say, the interests of non-parties or the public are not adversely affected by our acceptance of the stipulation and the remand will not erode public trust or reduce the incentive for pretrial settlement. (See *In re Rashad H.*, *supra*, at pp. 379-382; *Union Bank of California v. Braille Inst. of America, Inc.* (2001) 92 Cal.App.4th 1324, 1329-1330.)

DISPOSITION

The juvenile court's June 5, 2019, guardianship order is conditionally reversed and the matter is remanded to the juvenile court for the limited purpose of demonstrating full compliance with ICWA and related California law.

The juvenile court is directed to order DCFS to investigate Father's claim of Indian heritage and comply with notice requirements set forth in ICWA and corresponding California statutes. If proper investigation (to include investigation of possible Blackfeet or Cherokee heritage) and proper notice is found to have been undertaken, and if no tribe indicates either Minor is an Indian child, the juvenile court shall reinstate the guardianship order. If a tribe asserts one or both of the Minors is an Indian child, the juvenile court is to proceed in compliance with ICWA and related California provisions as to such Minor. Pursuant to the parties' stipulation, the remittitur shall issue forthwith.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, Acting P. J.

We concur:

MOOR, J.

KIM, J.