

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 D.J., et al., Persons Coming Under the
Juvenile Court Law.

B266865
(Los Angeles County Super. Ct.
No. CK92457)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.B.

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Stephen Marpet, Juvenile Court Referee. Affirmed and remanded with directions.

Karen B. Stalter, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearances for Plaintiff and Respondent.

M.B. (mother) files her second appeal contending noncompliance with the Indian Child Welfare Act (ICWA) and related California provisions requiring notice to Indian tribes. (25 U.S.C. § 1912(a); Welf. & Inst. Code, §§ 224.2 and 224.3.) The Los Angeles County Department of Children and Family Services (Department) has filed a letter conceding that after this court's earlier opinion (*In re D.J.* (June 13, 2013, B242917 [nonpub. opn.]) directing the juvenile court to comply with ICWA's notice provisions, the Department failed to provide notice of the proceedings to the St. Regis Mohawk tribe, relying instead on its earlier determination that there was no federally registered Mohawk tribe. (80 Fed.Reg.1945 (Jan. 14, 2015)); (*In re Marinna J.* (2001) 90 Cal.App.4th 731, 739-740, fn. 4 [requiring the Department to send proper notice to any possible tribal affiliations.]

We remand the matter for the Department to comply with ICWA's notice requirements. We do not reverse the order terminating mother's parental rights because there has not yet been a sufficient showing that ICWA substantive protections apply to mother's children. If a tribe later determines that mother's children are Indian children, "the tribe, a parent, or [the children] may petition the court to invalidate an action of placement in foster care or termination of parental rights 'upon a showing that such action violated any provision of sections [1911, 1912, and 1913].' (25 U.S.C. § 1914.)" (*In re Damian C.* (2009) 178 Cal.App.4th 192, 200.)

DISPOSITION

The order terminating mother's parental rights is affirmed. The case is remanded with directions to comply with ICWA's notice requirements. If the children are later determined to be Indian children within the meaning of ICWA, the court shall notify mother that she has the right to petition the court to invalidate the termination of her parental rights upon a showing that such termination was in violation of ICWA.

KRIEGLER, J.

We concur:

TURNER, P.J.

BAKER, J.