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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re T. S. et al, Persons Coming Under the
Juvenile Court Law.

B256493

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. CK90601)

Plaintiff and Respondent,

v.

FELICIA J.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County,
Philip L. Soto, Judge. Affirmed and remanded in part.

Donna Balderston Kaiser, under appointment by the Court of Appeal for
Appellant.

Richard D. Weiss, Acting County Counsel, Dawyn R. Harrison, Assistant County
Counsel, and Tyson B. Nelson, Deputy County Counsel, for Plaintiff and Respondent.

Felicia J. (Mother) appeals from juvenile dependency court orders terminating her parental rights over two children. We affirm the dependency court's orders conditionally, and remand the cause for further proceedings in accord with the Indian Child Welfare Act (ICWA). (25 U.S.C. § 1901 et seq.)

FACTS

Mother and C.S. are the parents of T. S., born in 2011. In November 2011, the Los Angeles County Department of Children and Family Services (DCFS) filed a petition on T.'s behalf pursuant to Welfare and Institutions Code, section 300, subdivision (b).¹ The petition alleged that Mother suffered from emotional and mental problems which rendered her incapable of providing regular care for T. and placed him at risk of physical harm. On November 23, 2011, the dependency court found that ICWA did not apply. In February 2012, the court conducted a jurisdiction and disposition hearing. The court sustained the petition and ordered reunification services.

Mother and C.S. are also the parents of Ta. S., born in 2012. In July 2012, DCFS filed a petition on Ta.'s behalf pursuant to section 300, subdivisions (b) and (j). The proceedings as to Ta. were thereafter heard together with the proceedings as to T. In August 2012, the dependency court sustained the petition as to Ta. and ordered reunification services.²

In July 2013, the court terminated reunification services as to Mother, T. and Ta.

On May 13, 2014, the court found T. and Ta. were likely to be adopted, and terminated Mother's parental rights. Mother then filed a timely notice of appeal.

On August 11, 2014, Mother filed her opening brief on appeal raising only one issue. Mother argues the dependency court failed to assure that DCFS gave notice of the

¹ All further undesignated section references are to the Welfare and Institutions Code.

² It does not appear from the record that specific findings as to ICWA were made in direct connection with the proceedings as to Taniet. Inasmuch as the same parents are involved as to T. and Taniet, we accept that the court's finding in the proceedings as to T. applied equally to the proceedings as to Taniet.

dependency proceedings to all applicable, identified Indian tribes as required by ICWA, and that this means the matter must be remanded for compliance with ICWA's notice procedures.

DISCUSSION

I. The Motion to Dismiss Appeal and Motion to Strike the Motion to Dismiss

DCFS filed a motion to dismiss Mother's appeal on the ground that she failed to file a timely appeal. DCFS's motion to dismiss relied on the then-recently decided case of *In re Isaiah W.* (2014) 228 Cal.App.4th 981 (*Isaiah W.*). In *Isaiah W.*, Division Three of our court ruled that an appeal raising the issue of ICWA compliance is untimely when the issue is raised on an appeal from an order terminating parental rights, but the ICWA ruling was made in conjunction with dispositional orders issued earlier than the window for the appeal from the order terminating parental rights. Shortly after DCFS filed its motion to dismiss, a petition for review was filed in *Isaiah W.*, and, on October 29, 2014, the Supreme Court granted review (S221263). In light of the Supreme Court's action in *Isaiah W.*, DCFS filed a motion to strike its motion to dismiss appeal. We hereby grant DCFS's motion to strike its motion to dismiss the appeal. This preliminary matter resolved, we address Mother's appeal.

II. ICWA Compliance

Mother's sole contention on appeal is that the current matter should be remanded to the dependency court "for notice to the Cherokee tribes . . . and further proceedings, if required, in compliance with the ICWA." DCFS concedes that remand for the limited purpose of assuring compliance with ICWA is an acceptable outcome on appeal. We agree.

ICWA requires a social services agency to give notice of a dependency proceeding to an Indian tribe when there is information suggesting that a child may be a member of the tribe. ICWA's notice requirements are intended to protect Indian children by setting up procedures which advance a recognized interest in maintenance of tribal and familial ties for Indian children who are faced with the prospect of being placed in the foster care system. (See, e.g., *In re Desiree F.* (2000) 83 Cal.App.4th 460, 469.) The threshold of

information needed to trigger notice to an Indian tribe under ICWA is low and does not require any particular biographical data. (See *In re Gabriel G.* (2012) 206 Cal.App.4th 1160, 1165.) We review a dependency court's determination regarding the applicability of ICWA for substantial evidence. (*In re J.T.* (2007) 154 Cal.App.4th 986, 991.)

In her opening brief on appeal, Mother argues that remand for compliance with ICWA is appropriate. DCFS essentially concedes as much. We agree with the parties that remand is best.

The information provided by Mother was sufficient to trigger the statutory duty imposed on DCFS to make a reasonable inquiry into a possible Indian tribal relationship, including, if proper, serving notice on an Indian tribe as required under the ICWA. (See, e.g., *In re Gabriel G., supra*, 206 Cal.App.4th at pp. 1165-1168.) We therefore remand the current case for the limited purpose of directing the dependency court to order DCFS to investigate T.'s and Ta.'s possible Indian heritage and then acts accordingly. Remand for the limited purpose of ensuring ICWA compliance does not require reversal of any of the remaining orders issued by the dependency court.

DISPOSITION

The dependency court's orders are affirmed conditionally. The case is remanded for the limited purpose of accomplishing compliance with ICWA.

BIGELOW, P.J.

We concur:

RUBIN, J.

GRIMES, J.