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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re H.G., a Person Coming
Under the Juvenile Court Law.

A172812

ALAMEDA COUNTY SOCIAL
SERVICES AGENCY,

(Alameda County
Super. Ct. No. JD-038190-01)

Plaintiff and Respondent,

v.

B.D.,

Defendant and Appellant.

On appeal from the juvenile court's combined jurisdiction and disposition order, B.D. (Mother), the mother of the minor H.G., raises two related claims. First, she asserts the juvenile court erred when it failed to make findings on the applicability of the Indian Child Welfare Act (25 U.S.C. § 1901 et seq. (ICWA); Welf. & Inst. Code, § 224 et seq.) at the combined hearing. Second, she contends the court and the Alameda County Social Services Agency (Agency) violated their duty of inquiry under ICWA by failing to adequately question extended family members about H.G.'s possible Native American ancestry and provide required information to the relevant tribes. The appeal is premature. No authority required the court to make ICWA findings at that

juncture in the proceedings, and we decline to assess the adequacy of a process that was still continuing when the court found B.D. to be a dependent child and ordered her placed with an approved relative during the reunification period. Accordingly, we dismiss the appeal.

BACKGROUND

The facts relevant to the narrow issue on appeal are as follows. On September 23, 2024, the Agency filed a dependency petition on behalf of nine-year-old H.G., alleging that Mother or Father (D.G.) had seriously harmed the child and Father's ability to care for her was unknown. The petition stated the Agency had reason to believe H.G. was or may be an Indian child based on information from the paternal grandmother. According to the detention report filed the same day, the Agency had not completed an ICWA inquiry as to Mother and would continue to obtain information from her and maternal relatives. The Agency had not yet been able to question Father, but the paternal grandmother reported Cherokee ancestry.

At the detention hearing, the court questioned the parents and maternal and paternal grandmothers about H.G.'s potential Native American ancestry. The maternal grandmother reported that her grandmother, H.G.'s great-great-grandmother, said her own parents were Native American, possibly Cherokee. Mother and the maternal grandmother¹ confirmed that they had Native American ancestry from unknown tribes and specifically identified a James and Mary Carter from Waco, Texas, and James and Benjamin Clark from Shoshone,

¹ The court reporter seems to have attributed several of maternal grandmother's comments to the paternal grandmother at pages 20-21 of the transcript.

Oklahoma. The maternal grandmother was unaware of any relatives who were registered to a tribe or had lived on a reservation.

Father knew that his father was Native American, but he did not know the tribe or its location. The paternal grandmother testified that her great-grandfather was Cherokee and Father's grandfather was Apache. She did not know where the tribes were located but said she would get that information. The court explained that the caseworker would "have a more in depth conversation with you about very specifics and seeing if she can help flush out exactly who we need to send notice of. [¶] Because if there is heritage then we need to notice particular tribes or relevant tribes, okay?"

In its November 12, 2024 report for the combined jurisdiction and disposition hearing, the Agency stated it would investigate the Cherokee ancestry on both sides of the family, submit notice to the Bureau of Indian Affairs and all Cherokee tribes, and update the court at the next hearing. In December 2024 the maternal great-grandmother reported having relatives registered with the Cherokee tribe on her mother's side of the family, including B.D.'s great-great-great-great-grandmother, Catherine Hardgrave. The Agency also followed up with the paternal grandmother, who clarified that she had Cherokee ancestry on her mother's side of the family through her great-grandmother, Elizabeth Morgan, and Apache ancestry through the great-grandfather, Bernard Gaspard of Arizona.²

² The report also observed that in December the paternal grandmother told the caseworker she did not know who James and Benjamin Clark were and did not remember having mentioned their names. That was because it was the maternal, not paternal,

In January, 2025, the Agency mailed notice of the dependency proceedings to the Bureau of Indian Affairs (BIA) and all Cherokee and Apache tribes.

On February 5, 2025, the Agency filed an amended petition alleging that Mother (but not Father) had engaged in excessive physical discipline, Father exposed H.G. to Mother's abuse, and his ability to care for H.G. was unknown. As before, the petition stated there was reason to believe H.G. was or might be an Indian child and added that her parents, grandparents, or great-grandparents are or were members of the Cherokee and/or Apache tribe. On February 20 the Agency filed return receipts from a number of tribes to whom it had sent notices of the proceedings.

The combined jurisdiction and disposition hearing was held on February 10 and February 25, 2025. Neither the court nor the parties brought up the ICWA inquiry process. At the conclusion of the hearing, the court sustained the dependency petition, declared H.G. a dependent child of the juvenile court, and ordered that she be placed in an approved relative's home under Agency custody with family reunification services and visitation for her parents and grandparents. The court cautioned the family that reunification services would not extend beyond November 18, 2025 unless it found a substantial probability that H.G. could be returned within six months from that date, and emphasized that "[t]he goal is reunification, it's not taking

grandmother who had identified the Clarks as Native American relatives; the mix-up may have been due to the apparent error in the detention hearing transcript identified in footnote 1, *infra*.

the child away[,] it's reunification." A status review hearing was set for August 19, 2025.

Mother filed this appeal from the jurisdiction and disposition order.

DISCUSSION

Mother asserts the court committed prejudicial error at the combined hearing by failing to make findings as to whether the Agency had satisfied its duty of inquiry into H.G.'s Native American ancestry and whether ICWA applied to her case. Accordingly, she asks us to conditionally reverse the disposition order and remand the case for compliance with ICWA's inquiry and notice requirements.

"The juvenile court and the county welfare department have an affirmative and continuing duty, beginning at initial contact, to inquire whether a child who is subject to the proceedings is, or may be, an Indian child." (*J.J. v. Superior Court* (2022) 81 Cal.App.5th 447, 461 (*J.J.*); *In re K.H.* (2022) 84 Cal.App.5th 566, 596–597.) Information suggesting that the parent or child is a member or may be eligible for membership in an Indian tribe triggers further duties to follow up with extended family members and others who may have information about the child's Indian status and provide notice and information to relevant tribes and agencies. (*In re K.H.*, *supra*, 84 Cal.App.5th at pp. 597–598.) The juvenile court must determine whether proper notice was given and whether ICWA applies to the proceedings. (*In re M.R.* (2017) 7 Cal.App.5th 886, 904 (*M.R.*)). But Mother cites no authority for her implicit claim that it must do so at the jurisdiction or disposition

hearing, and the cases indicate otherwise. (See, e.g., *J.J.*, *supra*, 81 Cal.App.5th at p. 461; *M. R.*, *supra*, 7 Cal.App.5th at p. 904.)³

To the extent Mother’s complaint is with the adequacy of the inquiry and notice proceedings, it is premature: based on the record before us, those proceedings remain ongoing and the juvenile court has not yet ruled on their adequacy or result. Accordingly, as has been explained in like circumstances, her claims of error are not ripe for review. (*J.J.*, *supra*, 81 Cal.App.5th at p. 461 [claim of ICWA compliance error at disposition hearing was premature where court had not ruled on whether proper notice was completed or ICWA applied]; *M.R.*, *supra*, 7 Cal.App.5th at p. 904 [same].) Mother misplaces her reliance on cases in which the juvenile court *did* expressly or impliedly rule on the ICWA issues. Those cases provide no guidance here. (See *In re Asia L.* (2003) 107 Cal.App.4th 498, 506–509; *In re A.M.* (2020) 47 Cal.App.5th 303, 320, disapproved on another point in *In re Dezi*, *supra*, 116 Cal.5th at p. 1152 & fn. 18.)

The Agency has represented to this court that it is continuing to comply with its ongoing duties of inquiry and notice. Mother can and should bring any deficiencies she perceives in those efforts to the juvenile court’s attention and may choose to challenge the juvenile

³ We recognize that federal regulations “urge early compliance with ICWA, as it ‘promotes the maintenance of Indian families, and the reunification of Indian children with their families whenever possible, and reduces the need for disruption in placements. . . . And early implementation of ICWA’s requirements conserves judicial resources by reducing the need for delays, duplication, and appeals.’” (*In re Dezi C.* (2024) 16 Cal.5th 1112, 1130.) Nothing in the record here indicates the Agency failed to comply with those regulations or delayed unnecessarily in conducting its investigation.

court's rulings on the ICWA issues, once it has ruled, in a new appeal. (See *M.R., supra*, 7 Cal.App.5th at p. 904, fn. 9.) But, because the court made no such findings when or before it issued the challenged order, this appeal is premature.

DISPOSITION

The appeal is dismissed.

Moorman, J.*

WE CONCUR:

Brown, P. J.

Streeter, J.

In re H.G. / A172812

* Judge of the Superior Court of California, County of Mendocino, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.