Filed 12/9/25 In re C.B. CA4/2
Opinion following transfer from Supreme Court

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re C.B., a Person Coming Under the Juvenile Court Law.	
SAN BERNARDINO COUNTY CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. T.G., Defendant and Appellant.	E082124 (Super.Ct.No. J282175) OPINION

APPEAL from the Superior Court of San Bernardino County. Cara D. Hutson, Judge. Conditionally reversed with directions.

Tom Bunton and Laura Feingold, County Counsel, Landon Villavaso, Deputy County Counsel, for Plaintiff and Respondent.

Mansi Thakkar, under appointment by the Court of Appeal, for Defendant and Appellant.

The juvenile court terminated the parental rights of T.G. (Mother) and D.B. (Father) to their daughter, C.B. (Welf. & Inst. Code, § 366.26., subd. (b)(1).)[1] Mother raises two contentions on appeal. First, Mother asserts San Bernardino County Children and Family Services (the Department) failed to adequately inquire of C.B.'s maternal relatives concerning the possibility of C.B. being an Indian child. (§ 224.2, subds. (a) & (b); *In re Ja.O.* (2025) 18 Cal.5th 271, 278 (*Ja.O.*).) Second, Mother contends the Department did not conduct an adequate further inquiry into C.B.'s paternal relatives' assertions of possible Blackfoot ancestry. We conditionally reverse.

In a prior, now vacated, appellate opinion, two members of our three-justice panel affirmed. As to the first issue, the two justices affirmed because C.B. was removed pursuant to a warrant, which meant the Department was not obligated to inquire of extended relatives regarding C.B. possibly being an Indian child. (*In re C.B.* (March 29, 2024, E082124) [nonpub. opn.] [vacated Oct. 9, 2025] [2024 WL 1337380, *5] [review granted June 12, 2024, S284964].) The California Supreme Court granted Mother's petition for review and ultimately directed this court to vacate our opinion and reconsider the case in light of *Ja.O*. In *Ja.O.* our Supreme Court held that child welfare agencies have a duty to inquire of extended relatives despite a child being removed pursuant to a warrant. (*Ja.O.*, *supra*, 18 Cal.5th at p. 278.)

[1] All subsequent statutory references will be to the Welfare and Institutions Code unless otherwise indicated.

FACTS

C.B. was born in May 2011. The Department detained C.B. in August 2019. At the time, Mother's whereabouts were unknown. The Department attempted to contact Mother at her old phone numbers to inquire about possible Indian heritage but did not succeed in reaching Mother, presumably because the phone numbers were no longer Mother's phone numbers.

Approximately four years later, in May 2023, the Department discovered a working phone number for Mother. When the Department social worker asked about Indian heritage, Mother "responded, 'maybe my grandfather on my mom's side is Aztec. I am not sure though. I do not know how to say or spell his name. He passed away in 2000 but I will call my brother, [A.G.], and ask him.' " The next day, Mother gave the Department social worker her grandfather's name. The social worker asked for A.G.'s telephone number, but Mother "declined to give it and said that he declined contact with the department." The Department social worker "reached out to [the] ICWA liaison and was notified that the Aztec tribe is not federally recognized and noticing is not required."

On July 24, 2023, Mother completed a departmental form regarding relative placement and Indian ancestry. In the relative placement section, Mother listed C.B.'s uncle, P.S., along with his telephone number. In the Indian ancestry section, Mother claimed she might have Aztec ancestry and gave the name of a relative, S.G., along with a telephone number. Mother did not identify S.G.'s relationship to C.B.

That same day, in court, the following exchange occurred:

"The Court: Mom, do you have Native American ancestry? Mother? Mother?

"[Mother's attorney]: Aztec Indian through her grandfather.

"The Court: Okay. Do you have any that's through the United State of America?

"The Mother: No. There's none from the United States.

"The Court: Just from Mexico. Okay. Perfect."

On September 13, 2023, at the hearing regarding terminating parental rights, the Department's attorney said, "Before we proceed this morning, Mother's first appearance was at the last court date and she did complete the 020 indicating that there may be Native American ancestry. [¶] However, when the Court inquired of her she indicated that the ancestry was from Mexico and the Aztec tribe. Will the Court please confirm that with Mother today?"

The juvenile court asked Mother, "When you were last in court you indicated that you did have native ancestry but it was with respect to which tribe?" Mother replied, "My grandpa was Aztec Indian." The juvenile court responded, "Thank you. That confirms."

DISCUSSION

A. MATERNAL RELATIVES

Mother contends the juvenile court erred in finding the Indian Child Welfare Act of 1978 (25 USCA § 1901 *et seq.*) (ICWA) did not apply because the Department did not attempt to contact P.S. and S.G.

The Department had a legal duty to ask extended family members if C.B. might be an Indian child. (Former 224.2, subd. (b) [effective Jan. 1, 2023]; *In re H.V.* (2022) 75 Cal.App.5th 433, 438.) "A juvenile court's finding that ICWA does not apply in a proceeding implies that . . . the Department fulfilled its duty of inquiry." (*In re H.B.* (2023) 92 Cal.App.5th 711, 719.) We apply the substantial evidence standard in reviewing the finding that the Department fulfilled its duty of inquiry. (*Ibid.*)

There is no evidence that the Department attempted to contact P.S. and S.G. despite being given their names and telephone numbers. Given that the Department did not contact any extended maternal relatives regarding Indian heritage, the failure to try to contact P.S. and S.G. means substantial evidence does not support the finding that the Department fulfilled its duty of inquiry. (Former 224.2, subd. (b) [effective Jan. 1, 2023].)

The Department contends it did not need to inquire of P.S. and S.G. because "[M]other's claim of Indian ancestry was not rooted in a federally recognized tribe." The Department's duty is to question extended family members. There is no law canceling that duty when a parent's claim indicates that ICWA does not apply. (*In re E.W.* (2023) 91 Cal.App.5th 314, 322 ["The Agency is not relieved of its duty of inquiry when parents report that they do not know of any Native American ancestry"].) Accordingly, we reject the Department's contention.

To the extent the Department intended to assert that its error was harmless because Mother only claims Aztec ancestry, we also reject that assertion. "When there is an inadequate inquiry and the record is underdeveloped, it is impossible for reviewing

courts to assess prejudice because we simply do not know what additional information will be revealed from an adequate inquiry." (*In re Dezi C.* (2024) 16 Cal.5th 1112, 1125.) If the Department had attempted to contact P.S. and S.G., it is possible they would have provided information about C.B. being an Indian child. Because we have no means of knowing what information they could provide, the error is prejudicial.

B PATERNAL RELATIVES

1. *FACTS*

In August 2019, Father and C.B.'s paternal aunt, B.J. (Aunt), informed the Department that they may have Blackfoot heritage. That same month, the Department notified the Blackfeet Tribe[2] of the case. The notification included identifying information for C.B.'s relatives, but some of the information was inaccurate and incomplete. For example, the name of Aunt, who alleged Blackfoot heritage, was omitted from the notice. In October 2019, the Blackfeet Tribe sent a letter to the Department reflecting that C.B. is not a tribal member and the Tribe would not intervene in the case.

[2] Father and Aunt claimed Blackfoot heritage, but the Department contacted the Blackfeet Tribe. We note that "there is frequently confusion between the Blackfeet tribe, which is federally recognized, and the related Blackfoot tribe which is found in Canada and thus not entitled to notice of dependency proceedings. When Blackfoot heritage is claimed, part of the [a]gency's duty of inquiry is to clarify whether the parent is actually claiming Blackfoot or Blackfeet heritage so that it can discharge its additional duty to notice the relevant tribes." (*In re L.S.* (2014) 230 Cal.App.4th 1183, 1198.)

In 2023, the Department sent a letter regarding the case, allegedly to the Blackfeet Tribe, with correct identifying information for C.B.'s relatives. The Department social worker asserted she sent the 2023 letter via certified mail. There is a 2023 letter in the record that begins "Dear Blackfoot tribe"; however, there is no address block in the letter for the Blackfeet Tribe's address. The record does not include the 2023 certified mail receipt to the Blackfeet Tribe or a responsive letter from the Blackfeet Tribe.

2. ANALYSIS

Mother contends that, due to the lack of an address, certified mail receipt, and responsive letter, there is no way "to determine whether the Blackfeet Tribe was in fact contacted."

There is reason to believe a child is an Indian child when the child's relative informs the court that the child is an Indian child, but the information is insufficient to know that the child is an Indian child. (§ 224.2, subds. (d)(1) & (e)(1).) In the instant case, C.B.'s relatives claimed Blackfoot heritage, and the Department failed to clarify if the relatives were referring to the Blackfoot Confederacy or the Blackfeet Nation. If the relatives meant to refer to the Blackfeet Nation, then there is reason to believe C.B. could be an Indian child.

When there is reason to believe a child is an Indian child, then the child welfare agency must conduct a further inquiry to help the juvenile court determine if the child is an Indian child. (§ 224.2, subd. (e)(2).) The further inquiry includes contacting the

relevant tribe and providing information that will help the tribe determine if the child is eligible for tribal membership. (§ 224.2, subd. (e)(2)(C).)

The Department contends, "[T]he omission of a mailing address in the letter itself does not give cause to believe the envelope in which the letter was contained was addressed to an incorrect addressee. It is more reasonable to believe the Department mailed the letter to the proper address for the Blackfeet tribe as it did on prior occasions; however, the Blackfeet tribe simply did not respond as it did on prior occasions when notice was sent to the tribe."

In the Department's 2019 notice, it wrote "Blackfeet." In the salutation of the 2023 letter, the Department wrote "Blackfoot." Because the 2023 salutation was directed to the wrong tribe, we cannot make the inference urged by the Department, i.e., that the letter was mailed to the correct tribe.

Moreover, without an address block, certified mail receipt, or responsive letter, there is no evidence to support the conclusion that the letter was mailed to the Blackfeet Nation. Accordingly, we will conditionally reverse to allow the Department to conduct a complete ICWA inquiry.

DISPOSITION

The order terminating parental right is conditionally reversed. The juvenile court shall: (1) direct the Department to (a) fulfill its ICWA obligations of inquiry (§ 224.2), and/or (b) provide evidence of already having fulfilled that duty; and (2) determine whether ICWA applies in this case. If the juvenile court determines that ICWA does not apply, then the juvenile court is directed to reinstate the order terminating parental

rights. If the juvenile court determines that ICWA applies, then the court is directed to proceed in conformity with the provisions of ICWA and related California law.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

MILLER
Acting P. J.

We concur:

RAPHAEL
J.

MENETREZ
J.