Filed 12/17/25 In re M.R. CA2/3

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re M.R. et al., Persons Coming Under the Juvenile Court Law.	B345847
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. Ch.R., Defendant and Appellant.	Los Angeles County Super. Ct. Nos. DK19402C, DK19402D

APPEAL from orders of the Superior Court of Los Angeles County, Marguerite D. Downing, Judge. Conditionally affirmed and remanded with instructions.

Lori Siegel, under appointment by the Court of Appeal, for Defendant and Appellant.

Dawyn R. Harrison, County Counsel, Kim Nemoy, Assistant County Counsel, Tracey Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

The juvenile court took jurisdiction over M.R. and C.R. in 2016 after finding their parents—Ch.R. (father) and M.C. (mother)—engaged in domestic violence in their presence and had unresolved substance abuse issues. The court removed the children from their parents' custody a year later, and father moved to Las Vegas soon thereafter. The court terminated father's reunification services in 2018, citing his failure to complete his case plan and visit the children. Seven years later, the court terminated father's and mother's parental rights so that the children's legal guardian—with whom the children had lived for nearly eight years—could adopt them.

On appeal, father argues the court should have applied the parental-benefit exception to the termination of parental rights. He also contends the Los Angeles County Department of Children and Family Services (Department) failed to comply with its duty of initial inquiry under state law (Welf. & Inst. Code, § 224 et seq.)[1] implementing the Indian Child Welfare Act of 1978 (ICWA) (25 U.S.C. § 1901 et seq.). The Department argues the juvenile court properly terminated father's parental rights, but it does not contest the ICWA issue.

We conclude the juvenile court properly declined to apply the parental-benefit exception, as there is substantial evidence that father failed to maintain regular visitation and contact with the children. However, we accept the Department's concession that its inquiry under ICWA was inadequate. Accordingly, we conditionally affirm the orders terminating parental rights

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[1] Undesignated statutory references are to the Welfare and Institutions Code.

pending the Department's and the court's compliance with ICWA and related California law.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Background*

Father and mother have two children together, M.R. (born in August 2014) and C.R. (born in July 2015). Mother has two children from other relationships—Mi.C. (born in 2006) and T.G. (born in 2011)—whom we refer to as the "older siblings."[2]

2. *The Department's petitions*

The Department filed a petition in September 2016 asserting the children and the older siblings are persons described by section 300, subdivisions (a) and (b)(1). According to the petition, mother and father engaged in a violent altercation in front of the children. During the altercation, father allegedly pushed mother to the ground and punched her in the mouth with a closed fist. The petition also alleged father was under the influence of marijuana while caring for the children, and mother abused amphetamine, methamphetamine, and marijuana.

The court sustained the petition and declared the children dependents under section 300. As to disposition, the court released the children to the parents' custody under the Department's supervision.

In January 2017, the Department filed a supplemental petition alleging mother had been terminated from a rehabilitation program and failed regularly to submit to

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[2] This appeal concerns only M.R., C.R., and father. Therefore, we summarize facts related to the older siblings and mother only to the extent they are relevant to the issues concerning the younger children and father.

drug testing. The court sustained the petition and removed the children from mother's custody. The court placed the children and their older siblings with father.

The Department filed a second supplemental petition in April 2017. The petition alleged father allowed mother to have unmonitored overnight visitation with the children in violation of the court's order. The court sustained the petition and found the previous disposition had not been effective in protecting the children. The court removed the children and their older siblings from father's custody and terminated the home-of-parent order. The court granted father visitation and ordered him to complete a full drug treatment program, parenting classes, and individual counseling.

3. *The reunification period*

In May 2017, the Department placed the children in the home of a non-relative caregiver, K.G. (the caregiver). That same month, father moved to Las Vegas, Nevada. Although mother was no longer in a relationship with father, she moved to Las Vegas a few months later. In August 2017, the court ordered the Department to provide transportation assistance to father to facilitate visitation.

In a January 2018 status review report, the Department recommended the court terminate both parents' reunification services. The Department reported father's visits had been "sporadic" since the court removed the children from his home. Father said his work and treatment schedules made it difficult for him to travel to see the children in person.

The court terminated both parents' reunification services in January 2018 and set a hearing to select a permanent plan under section 366.26. The court explained, "because the parents

have relocated out of state, . . . they have not consistently and regularly visited" the children. Moreover, the parents have not made "significant progress in resolving the issues that led to the removal of these children, nor have they demonstrated the appropriateness or ability to complete the objectives of treatment or to provide for the children's safety, protection, physical and emotional well being."

4. *Post termination of services*

In April 2018, the Department placed the older siblings in the same home as the children. The next month, the Department reported father's visits continued to be sporadic. Father had not been calling the children on the phone, and his most recent in-person visit was in November 2017. According to the caregiver, father only requested visits "right before each Court hearing."

In July 2018, the Department reported the children were "thriving" in their placement and the caregiver was meeting all their needs. The children and their older siblings had formed an attachment and bond with their caregiver.

In May 2019, the juvenile court selected legal guardianship as the permanent plan. The court appointed the caregiver as the legal guardian of the children and their older siblings.[3] The court granted father monitored visitation, a minimum of one hour once a month.

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[3] It is not clear why the court selected a legal guardianship over adoption. The pre-hearing reports show the Department recommended adoption as the permanent plan and the caregiver wanted to adopt the children.

5. *Father's first three section 388 petitions*

Between January 2021 and August 2022, father filed three petitions under section 388 asking the court to return the children to his home or reinstate reunification services with unmonitored visitation. The court denied all three petitions.

In connection with those petitions, the caregiver told the Department that father would sporadically video chat with the children, but sometimes he would not contact them for months at a time. Father told her he was too busy with work and "lost his phone." The caregiver expressed concern that father often made promises to the children he did not keep, such as promising to send gifts or visit in person. The children were upset when father did not follow through, and they eventually stopped asking to call or visit him.

Father initially contradicted the caregiver's report, telling the Department he contacted the children every week. However, upon further questioning, father said he had not been able to contact the children consistently because his "demanding work schedule" conflicted with the times the caregiver was available. Father said he understood the importance of visitation to establish a relationship with the children, and he agreed to make a better effort.

The Department reported that father consistently called the children on a weekly basis between March and August 2021. However, he had not had any in-person visits and could not identify any barriers preventing him from doing so. The Department recommended that father improve visitation and participate in therapy with the children.

At a July 2022 permanency planning review hearing, father told the court he had been trying to call the children more often,

but the caregiver would not answer the phone. The court pointed to a recent status report, in which the Department stated father had been calling at inconvenient times and did not answer the phone when the caregiver called back. The court told father to "work on . . . answering the phone when the kids call or setting up a schedule . . . so that everybody knows." The court directed the Department to work with father and the caregiver to set up a visitation schedule.

6. *Father's fourth section 388 petition*

In December 2023, father filed a fourth section 388 petition seeking the return of the children or reinstatement of reunification services. In connection with that petition, father told the Department he moved to Las Vegas shortly after the children were removed from his care because he "needed to better myself to get my kids." He said he had been living in Las Vegas with his wife and her 16-year-old daughter from a prior relationship.

According to father, he frequently visited M.R. and C.R. in 2017 and 2018. He would take a bus from Nevada to meet up with the caregiver and the children. However, his finances changed in 2019 and he could no longer afford to make the trip. Father planned to schedule in-person visits once he had a reliable vehicle. His finances were tight because he has three other children who also live in Los Angeles, and he pays child support for two of them.

Father acknowledged he had not had regular contact with the children since late 2021 or early 2022. According to father, he used to call the children regularly and talk to them for hours. At some point, the caregiver stopped answering his calls, so he stopped calling and sought relief from the court instead.

The caregiver said father continued to make promises to the children he did not keep. He told the children he would "pick them up to live with him or send them presents," but he never did. Father once told the children he could not visit them because the roads were closed. The children were confused when they discovered other people had traveled to or from Las Vegas.

M.R. said she talked to father during holidays and once saw him on a video call. C.R. also said he talked to father, but he could not say how often. He recalled seeing father on a video call three years earlier.

The caregiver said she took the children on a weekend trip to Las Vegas in July 2023 to visit their parents. The caregiver told father about the trip, and father said he was going to see the children as soon as they arrived. The children arrived on a Friday, but father said he could not see them until Saturday. On Saturday, father said the children were too far away for him to travel. Father finally met up with the children on Sunday at the Circus Circus casino. Father interacted lovingly with the children during the visit, but the children spent most of the time on rides. Father left after an hour.

Father said the caregiver told him about the Las Vegas trip "last minute." He wanted to see the children for longer, but he had just started a new job and could not get time off work.

Father had video visits with the children in January and February 2024. According to the Department, father engaged the children in conversation, the children responded well to him, and they appeared comfortable and happy. Father said the visit went well and he was working with the caregiver to set up regular video visits. However, they still had scheduling conflicts to resolve.

The court denied father's fourth petition on March 26, 2024. The court declined to hold an evidentiary hearing, noting there were no changed circumstances and it was not in the children's best interest to reinstate father's reunification services. After denying father's petition, the court directed the Department to give notice that the caregiver had asked to change the permanent plan to adoption.

Father appealed the denial of his fourth petition. On appeal, he argued the juvenile court abused its discretion by denying his petition without an evidentiary hearing. He also argued the Department failed to comply with its duty of initial inquiry under ICWA.

We affirmed the juvenile court's denial of father's fourth section 388 petition. (See *In re M.R.* (Aug. 11, 2025, B336352) [nonpub. opn.] (*In re M.R. I*).)[4] We rejected father's argument that the court abused its discretion by denying the petition without an evidentiary hearing, explaining the record shows father failed to maintain consistent visitation with the children. However, we accepted the Department's concession that its inquiry under ICWA was inadequate. Accordingly, we affirmed the order denying father's petition and remanded the matter for further proceedings consistent with ICWA and related California law. (*Ibid.*)

7. *The Department's reports*

While father's appeal was pending, the Department prepared a series of reports in anticipation of a section 366.26

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[4] Per father's July 21, 2025 request, we take judicial notice of the parties' briefs and our opinion in father's prior appeal, Case No. B336352. (See Evid. Code, § 452, subd. (d).)

hearing, at which the court would consider terminating parental rights to the children. According to those reports, the children were bonded to the caregiver and continued to thrive in her home. The caregiver was providing the children the necessities of life, a stable home environment, and emotional support.

The Department reported the children were Regional Center clients. Both children had been diagnosed with Autism Spectrum Disorder, "mild delay," and ADHD. They participated in therapy, tutoring, and psychiatric services. The Department asked the court to authorize additional mental health therapy for the children.

According to a September 2024 report, the children had not had any recent in-person visits with either parent. Father had 10 video visits with the children between February and May 2024. The Department said the children responded well to father during the visits and happily engaged with him. Father was appropriate and responded to the children in a loving manner and corrected their behavior when necessary.

In May 2024, father started calling the children on the phone once a week in lieu of video visits. However, as of September 11, 2024, father had not called the children since August 9, 2024. Father said scheduling the calls was "challenging" because of his work schedule and the children's sports schedules. According to father, he would sometimes call when the children were on their way to practice or getting ready for dinner, and other times the caregiver would not answer his calls.

The children had an in-person visit with father in March 2025. Father was in the area for a funeral and asked the Department to arrange a visit. The visit took place at a park

and lasted two hours. The Department reported the children seemed to enjoy father's company, laughed, and shared stories with him. Father and the children cried at the end of the visit. The children could not return to school because of their emotional states.

In an April 2025 report, the caregiver said father had been calling the children once a week, but the children were busy with other activities and were unable to talk to him consistently. She said the average phone call with father was seven minutes long. The caregiver was concerned that the conversations were inappropriate because father was giving the children "false hope" that they would live with him.

According to the Department, M.R. consistently expressed a desire for the caregiver to adopt her. She told the Department she is happy and feels safe with the caregiver, whom she referred to as "mommy." C.R. had previously expressed a desire to live with mother rather than being adopted. However, after starting new therapy, he had become excited about the caregiver adopting him. C.R. started calling the caregiver "mom" and said he feels safe and loved by her.

8. *The section 366.26 hearing*

The court conducted the section 366.26 hearing on April 23, 2025. Father appeared and testified at the hearing. Asked how often he has contact with the children, father responded, "Occasionally." Father said he would call the children once a week and talk to them for 30 minutes to an hour. However, he acknowledged he sometimes had "difficulty getting ahold of the children on the telephone." Father said he used the telephone calls to check in with the children to see how they are doing, and they would talk about their daily activities.

Father testified that he moved from Las Vegas to Virginia in September 2024. Since then, he had one in-person visit with the children, which took place on March 5, 2025. Father described the children's faces as "priceless" when they saw him. At the end of the visit, the children did not want father to leave. Father said the children similarly did not want to end video visits.

On cross-examination, father said he "had visitation in California" three times since moving out of the state in 2017. He was never denied an in-person visit with the children when he requested one. Father said he visited the Los Angeles area in 2024, but he did not try to see the children during that trip. Father later denied visiting the area in 2024, stating he had misunderstood the question.

After father testified, counsel for the children, caregiver, and the Department asked the court to terminate father's and mother's parental rights. The children's counsel noted the children had been living with the caregiver for many years and had developed a strong bond with her during that time. Counsel argued father had not made an effort to visit or keep regular and consistent contact with the children. Counsel asserted father's testimony was not credible.

The caregiver's counsel argued the children's reactions at the March 2025 in-person visit were not indicative of a bond; instead, they showed the "emotional turmoil brought up by the visit after such a long period of not seeing" father in person. Counsel argued the record shows the caregiver did not have animosity towards father and went out of her way to set up an in-person visit with him.

Father's counsel objected to the termination of his parental rights, and he asked the court to apply the parental-benefit exception to adoption.[5] Counsel argued father did his best, under the circumstances, to maintain a relationship with the children.

The court terminated father's and mother's parental rights and transferred the children's care to the Department for adoptive planning and placement. The court found, by clear and convincing evidence, the children are adoptable. It declined to apply the parental-benefit exception to adoption, finding the exception does not apply because father had not maintained regular and consistent visitation with the children. The court pointed to father's testimony that he visited the children in person only three times since 2017. The court also noted the last time father was in the area he did not visit the children.[6] The court concluded father had not shown a beneficial parent-child relationship with the children.

Father timely appealed.

DISCUSSION

1. *The court did not err by declining to apply the parental-benefit exception to adoption*

Father argues the juvenile court erred in terminating his parental rights at the April 2025 section 366.26 hearing.

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[5] Father also asked the court to apply the sibling-relationship exception to adoption. Father does not address that exception on appeal. Therefore, we do not discuss it.

[6] It is undisputed that father visited the children during a trip in 2025, which was his last visit to California. Presumably, the court was referring to father's testimony that he did not visit the children during a trip in 2024.

According to father, the court instead should have applied the parental-benefit exception to adoption.

"The sole purpose of the section 366.26 hearing is to select and implement a permanent plan for the child after reunification efforts have failed." (*In re J.D.* (2021) 70 Cal.App.5th 833, 851–852 (*J.D.*); *In re Marilyn H.* (1993) 5 Cal.4th 295, 304; see also § 366.26, subd. (b).) At that stage, the "focus shifts from monitoring the parents' progress toward reunification to determining the appropriate placement plan for the child." (*Marilyn H.*, at p. 305.) "The dependency statutes embody a presumptive rule that, after reunification efforts have failed, parental rights must be terminated in order to free a child for adoption." (*J.D.*, at p. 852, citing *In re Caden C.* (2021) 11 Cal.5th 614, 630–631 (*Caden C.*).) The juvenile court must select adoption as the permanent plan and terminate parental rights unless it finds doing so would be detrimental to the child under one of several statutory exceptions. (§ 366.26, subd. (c)(1); *Caden C.*, at pp. 630–631.)

Section 366.26, subdivision (c)(1)(B)(i) codifies one of those exceptions, which is commonly referred to as the parental-benefit exception. (See *Caden C., supra*, 11 Cal.5th at p. 625, fn. 2.) The exception applies where "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i); *J.D., supra*, 70 Cal.App.5th at p. 852.) The exception has three elements, each of which the parent must prove by a preponderance of the evidence: (1) regular visitation and contact with the child, taking into account the extent of visitation permitted; (2) the child has a substantial, positive, emotional attachment to the parent; and (3) terminating

that attachment would be detrimental to the child even when balanced against the countervailing benefit of a new, adoptive home. (*Caden C.,* at p. 636.)

Here, the juvenile court determined the parental-benefit exception does not apply because father failed to establish regular visitation and contact with the children. Whether a parent maintained regular visitation and contact "is straightforward. The question is just whether 'parents visit consistently,' taking into account 'the extent permitted by court orders.' [Citation.] Visits and contact 'continue[ ] or develop[ ] a significant, positive, emotional attachment from child to parent.' [Citation.] Courts should consider in that light whether parents 'maintained regular visitation and contact with the child' (§ 366.26, subd. (c)(1)(B)(i)) but certainly not to punish parents or reward them for good behavior in visiting or maintaining contact —here, as throughout, the focus is on the best interests of the child." (*Caden C., supra*, 11 Cal.5th at p. 632.)

We review a juvenile court's factual findings—including its findings on the visitation element of the parental-benefit exception—for substantial evidence. (*Caden C., supra*, 11 Cal.5th at pp. 639–640.) "In reviewing factual determinations for substantial evidence, a reviewing court should 'not reweigh the evidence, evaluate the credibility of witnesses, or resolve evidentiary conflicts.' [Citation.] The determinations should 'be upheld if . . . supported by substantial evidence, even though substantial evidence to the contrary also exists and the trial court might have reached a different result had it believed other evidence.' [Citations.] Uncontradicted testimony rejected by the trial court ' "cannot be credited on appeal unless, in view of the

whole record, it is clear, positive, and of such a nature that it cannot rationally be disbelieved." ' " (*Id.* at p. 640.)

We considered father's visitation history in connection with his appeal of the order denying his fourth section 388 petition. The issue was relevant because the juvenile court terminated father's reunification services, in part, because he failed to maintain consistent visitation. Therefore, we considered whether father had established and maintained consistent visitation as of March 2024—when the court considered his petition—such that it would constitute a "changed circumstance" warranting relief under section 388.

We concluded, on the record before us, the juvenile court reasonably could have found father failed to establish and maintain consistent visitation. We noted the record showed the juvenile "court removed C.R. and M.R. from father in 2017, when they were approaching two and three years old, respectively. The children visited father a handful of times over the next two years. In the five years after that, however, they had a single in-person visit with father, which lasted one hour." (*In re M.R. I.*) We noted that, although father talked to the children over the phone more often than he visited them in person, "he admitted he had not called them regularly since late 2021 or early 2022." (*Ibid.*)

The same evidence that supported our conclusion in father's prior appeal was before the juvenile court at the April 2025 section 366.26 hearing. That evidence was more than sufficient to support a finding that, for purposes of the parental-benefit exception to adoption, father failed to show regular visitation and contact with the children as of March 2024.

There also is substantial evidence showing father had not established or maintained regular visitation and contact as of

the section 366.26 hearing. In the 13 months between the section 388 hearing and the section 366.26 hearing, father visited the children in person once, for two hours, while he was in town for a funeral.[7] Father does not contest that a single in-person visit over the course of 13 months does not qualify as regular visitation or contact.

Nor did father regularly visit or contact the children through other means. The record shows father had video chats and voice calls with the children more often than he visited them in person. He had three video visits a month in early 2024, which switched to voice calls in May 2024. However, in a report dated September 11, 2024, the Department noted father had not called the children since August 9, 2024. Therefore, father had a lapse in contact lasting at least one month between the section 388 and section 366.26 hearings.

The record shows father resumed calling the children at some point, although it is not clear when. In an April 2025 report, the caregiver said father had been calling the children once a week. However, the caregiver noted the children did not consistently talk to father because they were busy with extracurricular activities at the times he would call. Father seemed to confirm the caregiver's report at the section 366.26 hearing, when he testified he did not talk to the children every

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[7] On direct examination at the section 366.26 hearing, father said his most recent in-person visit was in March 2025. On cross-examination, father suggested he also visited the children at some point on the day of the hearing. However, he did not explain where that visit took place, how long it lasted, or what he did with the children.

time he called them. Father also described his contact with the children as "[o]ccasional[ ]."

When father did get through to the children, the record shows their conversations were short. According to the caregiver, the average phone call with father lasted seven minutes. Therefore, even assuming the children spoke to father every week, his total visitation time still would not have reached the one-hour *minimum* the court granted him each month. (See *Caden C., supra*, 11 Cal.5th at p. 632 [whether a parent maintained regular visitation and contact depends on the " 'extent permitted by court orders' "].)

Father argues he did his best, under the circumstances, to maintain regular visitation and contact with the children. Father notes the children resided in a different state, his finances were limited, and their busy schedules made it difficult to find a time to connect. Father made similar arguments in his prior appeal, which we rejected. We explained that "[f]ather has given various explanations for his lack of consistent visitation over the years, including his work schedule, a lack of transportation, his physical distance from the children, and the caregiver's refusal to answer his calls. There is ample evidence in the record refuting many of those assertions. However, even assuming they were true, it does not change the fact that father had not established or maintained consistent visitation with the children" as of the hearing on his section 388 petition. (*In re M.R. I.*) The same is true of father's visitation and contact during the 13 months between the section 388 hearing and the section 366.26 hearing.

Father contends the record on appeal reflects "conflicting evidence" concerning how often he contacted the children and

whether the caregiver was cooperative. While that may be true, under the substantial evidence standard of review, we "view all factual matters . . . in support of the judgment, indulging all reasonable inferences and resolving all conflicts accordingly." (*Adoption of Arthur M.* (2007) 149 Cal.App.4th 704, 717; see *Caden C.*, *supra*, 11 Cal.5th at p. 640.) Viewing the record in that light, the juvenile court reasonably could have found father failed to maintain the sort of regular visitation and contact required to continue or develop a significant, positive, emotional attachment with the children. (See *Caden C.,* at p. 636; *In re I.R.* (2014) 226 Cal.App.4th 201, 212 [parents failed to establish regular visitation and contact where there were "significant lapses in visits"].) Because regular visitation and contact is a necessary element of the parental-benefit exception, the juvenile court properly declined to apply the exception.

2. *The Department and the court must comply with ICWA*

Father contends the case must be remanded for the Department and the court to conduct a more thorough ICWA inquiry.

Under California law implementing ICWA, the juvenile court and the Department "have 'an affirmative and continuing duty' in every dependency proceeding to determine whether ICWA applies by inquiring whether a child is or may be an Indian child." (*In re Dezi C.* (2024) 16 Cal.5th 1112, 1131–1132, quoting § 224.2, subd. (a).) The duty "includes, but is not limited to, asking the child, parents, legal guardian, Indian custodian, extended family members, others who have an interest in the child, and the party reporting child abuse or neglect, whether the child is, or may be, an Indian child." (§ 224.2, subd. (b)(2).)

Extended family members include adults who are the child's "grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent." (25 U.S.C. § 1903(2); former § 224.1, subd. (c) [adopting federal definition].) Once the juvenile court or the Department has a "reason to know" an Indian child is involved, formal notice under ICWA must be given to the child's "parents or legal guardian, Indian custodian, if any, and the child's tribe." (§ 224.3, subd. (a); 25 U.S.C. § 1912(a).)

Father challenged the adequacy of the Department's ICWA inquiry in his prior appeal. He argued the Department's inquiry was insufficient because it failed to follow-up with mother after learning she may have Indian ancestry from the Louisiana area. Father also noted the Department asked only one of his 11 siblings, and none of mother's relatives, about possible Indian ancestry. The Department filed a letter brief conceding "a more thorough inquiry of available relatives is warranted." In our August 2025 opinion, we accepted the Department's concession and remanded the case with directions to conduct a more thorough ICWA inquiry. (See *In re M.R. I.*)

The record does not contain information regarding the Department's actions in response to our August 2025 opinion. However, it does contain updated information about the Department's ICWA inquiry in the period between the section 388 hearing and the section 366.26 hearing. In September 2024, mother and a maternal uncle reportedly denied having Indian ancestry or other relevant information. Father told the Department that, according to his aunt, his grandmother has Cherokee ancestry but was not a member of a tribe. Father said he did not know his grandmother's date of birth, but he would

ask his family members for more information. The Department noted it would send ICWA notices once father provided his grandmother's date of birth. Father repeatedly told the Department he would "follow up on Native American Ancestry," but he failed to provide the Department any new information.

In this appeal, father again argues the Department's ICWA inquiry was inadequate because it failed to interview available relatives. Once again, the Department concedes its ICWA inquiry was inadequate. We accept the Department's concession. Accordingly, we conditionally affirm the orders terminating parental rights pending compliance with the directions in our opinion on father's prior appeal.

DISPOSITION

We conditionally affirm the juvenile court's orders terminating parental rights to M.R. and C.R. pending compliance with our directions in Case No. B336352. Unless the court and the Department have already complied with our directions in that case, the Department shall update the juvenile court on its investigation within 30 days of the remittitur. If the court determines—or has already determined—ICWA applies, it shall vacate its orders terminating parental rights and proceed in conformity with ICWA and related state law. Otherwise, the orders terminating parental rights shall remain in effect.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EGERTON, J.

We concur:

EDMON, P. J.

ADAMS, J.