Filed 12/16/25 In re L.N. CA5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re L.N., a Person Coming Under the Juvenile Court Law.	
TULARE COUNTY HEALTH AND HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. BRIANA N., Defendant and Appellant.	F090124 (Super. Ct. No. JJV072943B) **OPINION**

THE COURT[*]

APPEAL from an order of the Superior Court of Tulare County. Sylvia J. Hanna, Judge.

Neale B. Gold, under appointment by the Court of Appeal, for Defendant and Appellant.

Jennifer M. Flores, County Counsel, and Marit C. Erickson, Deputy County Counsel, for Plaintiff and Respondent.

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[*] Before Meehan, Acting P. J., Snauffer, J. and DeSantos, J.

Briana N. (mother) appeals from the juvenile court's order terminating her parental rights as to her minor child, L.N., under Welfare and Institutions Code section 366.26.[1] Her sole contention on appeal is that the court erred by finding the Indian Child Welfare Act of 1978 (25 U.S.C. § 1901 et seq.) (ICWA)[2] inapplicable because the Tulare County Health and Human Services Agency (agency) failed to conduct or attempt to conduct ICWA inquiry as to any of L.N.'s paternal relatives besides father.

The agency concedes error, and the parties have stipulated to an immediate remand for the limited purpose of complying with the inquiry provisions of ICWA and the California Indian Child Welfare Act (§ 224 et seq.) (Cal-ICWA).

We accept the agency's concession of error and the parties' stipulation. We conditionally reverse the court's order terminating parental rights, and remand with directions to ensure ICWA and Cal-ICWA compliance.

FACTUAL AND PROCEDURAL BACKGROUND

Overview

In December 2023, dependency jurisdiction was taken over infant L.N. under section 300, subdivisions (b)(1) and (j) due to the parents' failure to protect her as a result of domestic violence and mental illness, as well as abuse or neglect of L.N.'s sibling, which led to the termination of parental rights. For disposition, the juvenile court adjudged L.N. a dependent of the court, removed her from the parents' custody, and ordered the parents to participate in reunification services. The parents failed to reunify with L.N., and in May 2025, the juvenile court conducted a section 366.26 hearing.

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

2 "[B]ecause ICWA uses the term 'Indian,' we do the same for consistency, even though we recognize that other terms, such as 'Native American' or 'indigenous,' are preferred by many." (*In re Benjamin M.* (2021) 70 Cal.App.5th 735, 739, fn. 1.)

Parental rights were terminated, and adoption with L.N.'s care provider, the maternal grandmother, who had also adopted L.N.'s sibling, was ordered as L.N.'s permanent plan.

ICWA

Over the course of the proceedings, the agency and the juvenile court inquired of mother, father, and maternal grandmother about whether L.N. may be an Indian child, and all three consistently denied having Indian ancestry. Additionally, the agency reported that in April 2020, the juvenile court had found ICWA did not apply to L.N.'s sibling's dependency case. The record contains no documentation as to whether any other family members or individuals were asked or attempted to be asked about L.N.'s potential status as an Indian child.

The juvenile court made findings that there was no reason to believe or know L.N. was an Indian child at the detention hearing conducted on October 24, 2023; the jurisdiction/disposition hearing conducted on December 8, 2023; and the 12-month status review hearing conducted on January 28, 2025.

DISCUSSION

Mother contends the juvenile court's ICWA findings were error because the agency failed to ask any paternal relatives besides father whether L.N. might be an Indian child. Mother argues the agency should have at least asked the paternal grandmother, as the record indicates she was known to the agency and available.

The agency subsequently filed a "STIPULATION TO IMMEDIATE LIMITED REMAND AND IMMEDIATE REMITTITUR," on October 10, 2025, signed both by county counsel and mother's appellate attorney. Therein, the agency concedes ICWA initial inquiry error and asserts that the parties:

> "[S]tipulate to a conditional reversal of the May 14, 2025, order terminating parental rights and immediate remand to the juvenile court for compliance with the inquiry and notice requirements of ICWA and corresponding

> California statutes. If the juvenile court thereafter finds a proper and adequate inquiry and due diligence has been conducted and concludes ICWA does not apply, then the court shall reinstate the order terminating parental rights. If the juvenile court concludes ICWA applies, then it shall proceed in conformity with the ICWA and California implementing provisions."

The parties also stipulate to the immediate issuance of the remittitur to minimize delay to the case.

We accept the agency's concession and the parties' stipulations.

Under Cal-ICWA, when a child is placed into the temporary custody of a child welfare agency, the agency has an initial duty that includes "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" within the meaning of ICWA. (§ 224.2, subd. (b)(2).)

Here, since the record does not indicate whether efforts were made to inquire of reasonably available extended family members, particularly the paternal grandmother, we agree with the parties the court abused its discretion in implicitly finding the agency had made an adequate inquiry. (See *In re K.H.* (2022) 84 Cal.App.5th 566, 601–602 [stating the standard of review], 604 [inquiry should be reasonable, documented, and "extend far enough to reasonably ensure that if there is information the child is or may be an Indian child, that information is gathered"].) Such an error necessitates conditional reversal and remand to ensure compliance with ICWA and Cal-ICWA inquiry provisions. (*In re Dezi C.* (2024) 16 Cal.5th 1112, 1151–1152.)

Further, we conclude immediate remand and remittitur is appropriate. Before reversing or vacating a judgment based upon a stipulation of the parties, an appellate court must find "both of the following: [¶] (A) There is no reasonable possibility that the interests of nonparties or the public will be adversely affected by the reversal[; and] [¶] (B) The reasons of the parties for requesting reversal outweigh the erosion of public trust that may result from the nullification of a judgment and the risk that the availability of

stipulated reversal will reduce the incentive for pretrial settlement." (Code Civ. Proc., § 128, subd. (a)(8).)

We find both conditions are present. Here, the parties, and we, agree that Cal-ICWA inquiry error has occurred, and conditional reversal and limited remand are necessary regardless of the existence of the stipulation. Thus, the reason for the stipulation is simply to expedite the appellate process and resolution of the error. Quicker resolution of this error, which affects the stability and permanence of a young child, benefits, rather than adversely affects, the child, the public, and a nonparty such as the prospective adoptive parent. Further, the expedited resolution of the present case serves to advance, rather than erode, public trust and outweighs any negative effect of discouraging prejudgment resolution of ICWA issues.[3] (See *In re Rashad H.* (2000) 78 Cal.App.4th 376, 379–382 [stipulation to reverse order terminating parental rights due to notice error permitted by Code Civ. Proc., § 128, subd. (a)(8)].)

DISPOSITION

The order terminating parental rights is conditionally reversed. The matter is remanded to the juvenile court for compliance with the inquiry and notice requirements of ICWA and corresponding California statutes. If the juvenile court concludes, after finding proper and adequate inquiry and due diligence has been conducted, that ICWA does not apply, then the court shall reinstate the order terminating parental rights. If the juvenile court concludes ICWA applies, then it shall proceed in conformity with the ICWA and California implementing provisions. By stipulation of the parties, the Clerk/Executive Officer of this court is directed to immediately issue the remittitur. (Cal. Rules of Court, rule 8.272(c)(1).)

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[3] We rest assured that the parties will refrain from using the availability of a stipulated reversal as a reason not to prioritize ensuring compliance with ICWA and Cal-ICWA inquiry provisions in the first instance before parental rights are terminated.