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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B255336  
(Super. Ct. No. JV51164)  
(San Luis Obispo County)

SAN LUIS OBISPO COUNTY  
DEPARTMENT OF SOCIAL SERVICES,

Plaintiff and Respondent,

v.

STACY G. et al.,

Defendants and Appellants.

Parents of a child found to be a dependent of the juvenile court appeal an order terminating their parental rights pursuant to Welfare and Institutions Code section 366.26.<sup>1</sup> Father died while the appeal was pending. We dismiss as to Father and affirm as to Mother.

**FACTS**

On August 25, 2012, Levi M. (Father) attempted to remove the child from Stacy G. (Mother) in a threatening and violent manner. In doing so, he violated a

<sup>1</sup> All statutory references are to this code unless otherwise stated.

restraining order prohibiting him from having contact with Mother. When the police arrived, they found drug paraphernalia in the home. Mother tested positive for drugs and was arrested. The San Luis Obispo County Department of Social Services (DSS) took custody of the child.

On September 25, 2012, DSS filed a juvenile dependency petition. (§ 300, subd. (b).) On September 26, 2012, the trial court granted the petition, finding the child to be a dependent of the court. The child was eight months old. She was placed with her maternal grandmother. The court ordered reunification services and visitation for the parents.

On March 20, 2013, DSS filed a report for the three-month review hearing. DSS reported that the child was still with maternal grandmother and thriving in her care.

Neither parent complied with the case plan. At the six-month review, DSS recommended termination of reunification services. Father had been in and out of custody until April 11, 2013. The trial court terminated reunification services for both parents and set the matter for a hearing pursuant to section 366.26. Father petitioned for a writ to review the order terminating services and setting the matter for a section 366.26 hearing. We denied his petition. (*L.M. v. Superior Court of San Luis Obispo County* (Jan. 7, 2014, B251052) [nonpub. opn].)

DSS recommended that parental rights of both parents be terminated, and that the child remain with her maternal grandmother for adoption. The trial court so ordered.

## DISCUSSION

### I.

During the pendency of this appeal, Father's counsel informed us that Father died. Counsel filed a motion to dismiss the appeal as moot. Granting the motion is the appropriate disposition. (*In re A.Z.* (2010) 190 Cal.App.4th 1177, 1180-1182.) We dismissed Father's appeal.

## II.

Mother claims the trial court failed to ensure compliance with the Indian Child Welfare Act (ICWA). (25 U.S.C. § 1901 et seq.)

Father stated he did not know whether he had any Native American ancestry. He refused to sign the ICWA Indian status form. Mother signed one stating she had no Native American ancestry. DSS sent notices to the Secretary of the Interior and the parents about Father's possible heritage in an unspecified tribe. At the six-month hearing, the court found ICWA did not apply because there was no response that the child was a member or eligible for membership in a tribe.

At the section 366.26 hearing, DSS asked the paternal grandmother whether there was any Native American heritage in her family. She replied, "Not on his mother's side but on his father's side we were only told that there's Cherokee. . . . [H]is grandfather was not on any of the scrolls at the time. . . . [Y]ou just didn't say you were Indian and you were really looked down upon and his . . . grandfather told me that." She gave the grandfather's name and possible birthdate and birthplace, but said he was deceased. She gave the names of two aunts and two uncles, but did not have sufficient information to contact them. DSS attempted to obtain more information from Father without success.

Based on the information it had, DSS sent notices to three Native American tribes. All three tribes responded that the child was not a member and not eligible for membership.

DSS has a duty to complete the ICWA forms "to the extent such information is known" to the agency. (*In re Karla C.* (2003) 113 Cal.App.4th 166, 179.) It has "no duty to conduct an extensive independent investigation for information. (*In re C.Y.* (2012) 208 Cal.App.4th 34, 41.)

Here Mother denied any Native American ancestry. Father stated he did not know and refused to cooperate by filling out the appropriate form. The paternal grandmother testified she was "only told" paternal grandfather might have some

Cherokee ancestry. She stated, however, that he was "not on any of the scrolls." The paternal grandfather was dead. DSS gave notice to three Cherokee tribes. All notices were returned stating that the child was not a member of the tribe nor eligible for membership. DSS fully complied with ICWA.

There is absolutely no evidence that even remotely suggests further inquiry would have been productive. Parents unable to reunify with their children have already caused serious harm; they are not permitted to cause additional delay and hardship without any showing whatsoever that the interests protected by ICWA are implicated in any way. (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1532.)

The judgment (order) is affirmed as to Mother.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Linda D. Hurst, Judge

Superior Court County of Santa Barbara

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Defendant and Appellant Stacy G.

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