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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)

In re T.L., a Person Coming Under the
Juvenile Court Law.

SAN JOAQUIN COUNTY HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

T.D.,

Defendant and Appellant.

C069298

(Super. Ct. No.
J04951)

Appellant T.D., the mother of the minor T.L., appeals from the juvenile court's orders terminating parental rights. (Welf. & Inst. Code, §§ 395, 366.26; undesignated statutory references that follow are to this code.) She contends there was a failure to comply with the notice provisions of the Indian Child Welfare Act (ICWA). We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

T.L. was born in June 2004. In July 2008, mother was arrested and charged with public intoxication and child

endangerment when she was found too intoxicated to care for herself or the minor. In August 2008, mother's roommate assaulted her while they were drinking alcohol and smoking marijuana. The parents did not have stable housing, and were living with the minor in a downtown hotel frequented by transients, drug addicts and alcoholics.

The San Joaquin County Human Services Agency (Agency) filed a dependency petition in August 2008, alleging jurisdiction pursuant to section 300, subdivision (b) (failure to protect). The juvenile court issued a protective custody warrant the following day.

Mother said the minor might have Indian heritage at the September 2008 hearing to recall the warrant. Mother filled out an Indian ancestry questionnaire indicating that she might have Indian ancestry but did not know what tribe. Father said he had no Indian ancestry.

The parents pled no contest to jurisdiction in October 2008. The juvenile court ordered services for the parents at the dispositional hearing held later in the month. The six-month review report noted father was complying with the case plan while mother was progressing with in-patient services. The juvenile court continued services.

An October 2009 report stated mother was doing well in a new program after being discharged from her previous program for testing positive for alcohol. Father was actively working in his program and found stable housing. The juvenile court continued services for another six months.

The April 2010 report recommended terminating services for the parents. Mother was discharged from her treatment program in November 2009 for consuming alcohol. In December 2009, she attended a drug court hearing with a blood-alcohol level of .122 percent. She was discharged from drug court for continuous noncompliance in February 2010. Father continued to be in a relationship with mother and no longer maintained contact with the Agency. The juvenile court terminated services for the parents and set a section 366.26 hearing for October 2010.

The juvenile court learned in October 2010 that the maternal grandmother recently claimed Indian heritage at a hearing on her writ petition regarding placement. The maternal grandmother told the court she intended to provide the information if given enough time, and the juvenile court ordered her to comply within two weeks.

In November 2010, the Agency filed ICWA notice with the Bureau of Indian Affairs and 48 tribes from the Cherokee Nation, Washington, and Arizona. The notification form indicated the maternal great-great-great-grandmother had Cherokee heritage, the maternal great-great-grandfather had "Mexican Desert (100% -- St. John's, Arizona" heritage, the maternal great-grandmother had "North American Indian Heritage in Washington," and the maternal great-great-grandmother had "(100%) Mexican Desert" heritage. The form also indicated that the maternal great-great-great-grandfather and maternal great-great-great-grandmother attended an Indian school in Oklahoma and received

treatment at an Indian clinic in Oklahoma, and had lived on a Cherokee reservation in Oklahoma.

In February 2011, the Quinault Indian Nation informed the Agency it could not determine the minor's eligibility without knowing the identities of the minor's parents and grandparents. The Quinault Indian Nation sent a letter in March stating it was "unable to make a determination without additional ancestry." The Shoalwater Bay Tribe requested a family tree in February 2011.

In February 2011, the Agency filed proof of service of notice for the section 366.26 hearing to 19 tribes in the Washington and Arizona areas who had not yet responded. The Agency filed a declaration of its efforts to identify tribal affiliation in April 2011. The declaration did not describe the information received from the maternal grandmother regarding her Indian heritage.

A May 2011 declaration on ICWA compliance stated that the tribes that had not responded to the November notice were notified for the April 2011 hearing. Correspondence from the Quinault Indian Nation stating the minor was not eligible for membership was attached to the declaration.

The section 366.26 report stated that the foster parents were in the process of completing the adoption home study and asked to adopt the minor. At the July 2011 section 366.26 hearing, the juvenile court found the minor was not an Indian child and terminated parental rights.

DISCUSSION

Mother contends the Agency did not comply with the ICWA's notice provisions. We disagree.

The ICWA protects the interests of Indian children and promotes the stability and security of Indian tribes by establishing minimum standards for, and permitting tribal participation in, dependency actions. (25 U.S.C. §§ 1901, 1902, 1903(1), 1911(c), 1912.) These interests are protected by providing notice of pending proceedings that could affect the status of the Indian children with respect to the tribe. Notice to the Indian tribe is triggered if the court "knows or has reason to know that an Indian child is involved." (25 U.S.C. § 1912(a); Welf. & Inst. Code, § 224.2; Cal. Rules of Court, rule 5.481(b).)

Mother argues the Agency's notification form shows the maternal great-grandfather had San Carlos Apache and Navajo Nation heritage, but it did not notify those tribes. She further contends that while the maternal grandmother identified North American Indian heritage in Washington and Mexican Desert Indian heritage in Arizona, the Agency failed to notify the Cowlitz Tribe in Washington, and the San Carlos Apache Tribe, the Navajo Nation, the San Juan Southern Paiute Tribe, and the Fort Mojave Tribe in Arizona. Finally, mother contends that the responses of the Quinault Indian Nation and the Shoalwater Bay Tribe show that the Agency did not give them sufficient information.

The maternal grandmother is the source of mother's ICWA claims on appeal. She first claimed Indian heritage in another proceeding. She told the Agency that she needed time to provide the information, and told the juvenile court she would provide the information within two weeks of an October 13, 2010 hearing.

The next mention of the minor's possible Indian heritage is the ICWA notice sent on November 23, 2010. The notice lists numerous tribes from Arizona and Washington and the Cherokee tribes for mother, the maternal grandparents, and the maternal great-grandparents. The "Other relative information" portion of the form lists Cherokee heritage for the maternal great-great-great-grandmother, "Mexican Desert (100%) -- St. John's, Arizona" for the maternal great-great-grandfather, "North American Indian Heritage in Washington" for the maternal great-grandmother, and "(100%) Mexican Desert" for the maternal great-great-grandmother. The maternal grandmother did not fill out an ICWA-30 form, and there is no other evidence regarding her claim of Indian heritage.

The record contains no direct evidence of what the maternal grandmother told the Agency about her Indian heritage. It appears that the maternal grandmother related only the vague classifications found in the "Other relative" section to support her claim of Indian heritage. Based on this information, the Agency sent notice to the 48 tribes that fell within the vague classifications: all Cherokee tribes and all tribes in Washington and Arizona. The alternative interpretation from this scant evidence, that the maternal grandmother individually

named all 48 tribes as possible sources of her Indian heritage, is not supported by the record.

The Indian status of a child need not be certain to trigger ICWA's notice requirements. (*In re Desiree F.* (2000) 83 Cal.App.4th 460, 471.) However, not every allegation of Indian heritage requires ICWA notice. Allegations can be "too vague and speculative to give the juvenile court any reason to believe the minors might be Indian children." (*In re O.K.* (2003) 106 Cal.App.4th 152, 157.) A juvenile court has "no obligation to make a further or additional inquiry in the absence of any evidence supporting a reasonable inference that the child might have Indian heritage. [Citation.]" (*In re Aaron R.* (2005) 130 Cal.App.4th 697, 708.) For example, a paternal grandmother's statements that she might have Indian ancestry and that her dead mother was born on an Indian reservation in Oklahoma did not trigger ICWA notice. (*In re Levi U.* (2000) 78 Cal.App.4th 191, 194, 198.)

Such is the case with most of the information related by the maternal grandmother. The claims of Indian heritage in Washington, "Mexican Desert," and "Mexican Desert (100%) -- St. John's, Arizona" are too vague and speculative to give reason that the minor may have Indian heritage.¹ They do not claim heritage from a particular tribe or group of tribes, instead

¹ The Indian ancestry questionnaire in which mother indicated she might have ancestry in an unknown tribe is likewise insufficient to support ICWA notice.

making vague claims of Indian heritage from a region. The only claim of Indian heritage sufficiently specific to support ICWA notification was the claim of Cherokee heritage for the maternal great-great-great-grandmother.

Mother admits the three Cherokee tribes -- the Cherokee Nation of Oklahoma, the Eastern Band of Cherokee Indians, the United Keetoowah Band of Cherokee Indians in Oklahoma -- were properly notified. (75 Fed.Reg. 28113, 28114 (May 19, 2010).) The tribes that mother claims were not properly notified are from the Washington and Arizona areas. Since the Agency did not have a duty to notify any tribes other than the Cherokee, the alleged errors did not violate the notice requirements of the ICWA. Likewise, since the Quinault Indian Nation and the Shoalwater Bay Tribe are from Washington, they were notified, even though there was no duty to notify them, because they were not Cherokee, and any failure to give them sufficient information did not violate the ICWA.

DISPOSITION

The juvenile court's orders terminating parental rights are affirmed.

NICHOLSON, Acting P. J.

We concur:

DUARTE, J.

HOCH, J.