

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re DAVID R. II, a Person Coming Under
the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

DAVID R.,

Defendant and Appellant.

D061516

(Super. Ct. No. EJ3329)

APPEAL from a judgment of the Superior Court of San Diego County, Gary M. Bubis, Judge. Reversed and remanded with directions.

David R. appeals the judgment terminating his parental rights to his son, David R. II (David II). David contends the San Diego County Health and Human Services Agency (the Agency) did not comply fully with the notice requirements of the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.). David correctly notes: there is no ICWA-030 form (Cal. Rules of Court, rule 5.481(a)(4)(A) [Notice of Child Custody Proceeding for Indian

Child]) in the record; the Agency based its ICWA notices on inaccurate information; and the Agency did not send ICWA notice to the Comanche Tribe, although David II's mother, who died during the juvenile court proceedings, claimed Comanche Tribe heritage. The Agency concedes it did not send ICWA notices to all of the tribes named in the mother's ICWA-020 form (Cal. Rules of Court, rule 5.481(a)(2) [Parental Notification of Indian Status]), and did not provide the court with ICWA notices or a documented explanation why notice was not sent to the Comanche Tribe. The Agency further concedes that a limited remand is necessary to effect and document proper ICWA inquiry and notice.

DISPOSITION

The judgment terminating parental rights is reversed. The case is remanded to the juvenile court with directions to order Agency to (1) conduct a further ICWA inquiry; (2) provide ICWA notice to any tribes the inquiry identifies; and (3) file all required documentation with the juvenile court. If, after proper notice, a tribe claims that David II is an Indian child, the juvenile court shall proceed in conformity with ICWA. If, on the other hand, no tribe claims that David II is an Indian child, the court shall reinstate its judgment terminating parental rights. Pursuant to the parties' stipulation, the remittitur is to issue forthwith (Cal. Rules of Court, rule 8.272(c)(1)).

McDONALD, J.

WE CONCUR:

BENKE, Acting P. J.

O'ROURKE, J.