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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re E.B., a Person Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF CHILDREN'S SERVICES,

Plaintiff and Respondent,

v.

K.K.,

Defendant and Appellant.

E054963 (MF) / E055673

(Super.Ct.No. RIJ119098)

OPINION

APPEAL from the Superior Court of Riverside County. Matthew C. Perantoni,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Roni Keller, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Pamela J. Walls, County Counsel, and Anna M. Deckert, Deputy County Counsel,  
for Plaintiff and Respondent.

# I

## INTRODUCTION

On this court's own motion, the instant appeals in case Nos. E054963 and E055673 have been ordered consolidated for purposes of oral argument and decision in this juvenile dependency matter. In case No. E055673, mother is once again challenging compliance with the Indian Child Welfare Act (ICWA)<sup>1</sup> and notice provisions as to her son, E.B. This court in mother's previous appeal reversed the juvenile court's order terminating parental rights because of inadequate ICWA investigation, and the matter was remanded for the limited purpose of compliance with ICWA. Upon remand, the Riverside County Department of Public Social Services (Riverside Department) conducted further investigation of E.B.'s Indian ancestry. Thereafter the juvenile court found compliance with ICWA inquiry and notice requirements, concluded ICWA did not apply, and reinstated the previous order entered on November 3, 2010, terminating parental rights.

Mother appeals the juvenile court's order reinstating termination of parental rights. She contends the Riverside Department has not fulfilled its duty of inquiry as to E.B.'s Native American heritage and his status as an Indian child under ICWA. We conclude mother forfeited this objection by failing to raise it during the special ICWA hearing on remand. Furthermore, the Riverside Department adequately conducted an investigation and fully complied with ICWA.

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<sup>1</sup> 25 United States Code section 1901 et seq.

In mother's corresponding appeal, in case No. E054963, mother contends the juvenile court violated her statutory and constitutional rights to counsel during the hearing on her postappeal section 388 petition. Mother also argues the juvenile court committed reversible error by reinstating the order terminating parental rights before conducting the special hearing on ICWA compliance. We reject these contentions, and affirm the judgment as to both of mother's appeals.

## II

### PROCEDURAL BACKGROUND AND FACTS

E.B.'s mother was 17 years old and his father was 18 years old when E.B. was born in 2007. In July 2009, while mother was living with E.B. in Los Angeles, mother was arrested for child cruelty (Pen. Code, § 273a, subd. (a)) and for an outstanding warrant for failing to appear in court in a separate matter (Pen. Code, § 853.7). The Los Angeles County Department of Children and Family Services (LA Department) took E.B. into protective custody. Mother had just turned 19 years old and E.B. was one year and seven months old.

The day mother was arrested, an LA Department social worker interviewed mother by telephone. Mother said she was a dependent child herself and her guardian was E.B.'s maternal great-grandmother (great-grandmother). Father had not contributed toward the welfare of E.B. Mother explained that she left E.B. at home while she took out the trash and then went to her cousins' home to visit. She claimed she did not know her cousins' names. While at her cousins' home, a neighbor told her the police were at her home. Only E.B. and mother were living in the apartment. Mother acknowledged

her drug of choice was marijuana, which she had last used about three weeks before.

In July 2009, the LA Department filed a juvenile dependency petition as to E.B., under section 300, subdivisions (b) and (g). The LA Department alleged in the petition that E.B.'s parents failed to adequately supervise and protect him. Mother left E.B. alone at home, with the oven on. In addition, mother was a current abuser of marijuana, which prevented her from adequately supervising and providing for E.B. Father allegedly had failed to provide the necessities of life for E.B. and was not living with mother and E.B.

In July 2009, the LA Department also filed a detention report and addendum report. At the detention hearing, the court ordered E.B. detained in foster care and ordered monitored visitation. The court further ordered the LA Department to provide reunification services and compliance with ICWA.

In August 2009, the LA Department filed an amended petition, stating that father had a criminal history of arrests and convictions for drug-related offenses and, in April 2009, had been convicted of transporting or selling a narcotic or controlled substance, a felony. Father's drug selling activities placed E.B. at risk of harm.

The social worker reported in an interim review report filed in September 2009, that E.B. remained in foster care. Mother started out consistently visiting E.B. but this changed, with mother cancelling several visits in July and August. Father did not visit E.B. The social worker also noted that mother reportedly smoked marijuana and did so in E.B.'s presence. The LA Department reported in its jurisdiction hearing report filed in October 2009, that mother's visitation continued to be sporadic and inconsistent. Mother also continued to miss drug tests, including four tests in August, September, and October.

At the jurisdiction and disposition hearing in October 2009, mother told the court that she lost her apartment after E.B. was taken into protective custody and was homeless. Although the court dismissed the allegation mother abused marijuana, mother requested she be permitted to establish her sobriety by participating in drug testing. Mother was ordered to complete 10 clean drug tests over 10 weeks and, if any were missed or positive, mother was required to complete a drug treatment program.

In December 2009, the trial court transferred the case from Los Angeles County to the Riverside County juvenile court, because mother moved to Riverside County.

In March 2010, the Riverside Department filed a six-month status review report recommending termination of reunification services and setting a Welfare and Institutions Code<sup>2</sup> section 366.26 hearing (.26 hearing). The Riverside Department reported that mother was living with maternal grandmother, was unemployed, and was attending cosmetology school. Mother had not made any progress on her case plan. Mother had six months to submit 10 clean drug tests and failed to do so. The social worker concluded mother's continued instability created a risk for E.B. Father was homeless and his whereabouts were unknown. At the six-month review hearing in May 2010, the court terminated reunification services and set a .26 hearing. In June 2010, E.B. was placed in a second foster home. The Riverside Department reported in August 2010, that E.B. was well-adjusted and happy in his new foster home. The social worker concluded E.B. was adoptable and recommended terminating parental rights.

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<sup>2</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

On November 3, 2010, mother filed a section 388 petition seeking to reinstate reunification services and vacate the .26 hearing. The petition stated that mother had obtained appropriate housing in a transitional living program in October 2010. She had also enrolled in a parenting program, which she was due to complete in December 2010, and had attended five counseling sessions. In addition, she was attending a pharmacy technician program and had maintained visitation. Mother was required to test negative for drugs as a condition of participating in the transitional living program. Mother asserted that granting her section 388 petition was in E.B.'s best interests because she had a bond with E.B., which would be strengthened by allowing her to reunify with him.

On November 3, 2010, the trial court heard and denied mother's section 388 petition, concluding there had not been changed circumstances. Mother was in the process of changing her circumstances, but had not changed them enough to warrant granting her section 388 petition, particularly when it was not in E.B.'s best interests to do so. After denying mother's section 388 petition, the court conducted the .26 hearing. Mother argued that the beneficial parental relationship exception to adoption under section 366.26, subdivision (c)(1)(B)(i) applied. The juvenile court found that the exception did not apply and ordered parental rights terminated in favor of adoption.

Mother appealed the November 3, 2010, order denying her section 388 petition and the order terminating parental rights (case No. E052478). Mother argued that she had established sufficient changed circumstances and the Riverside Department had not complied with ICWA notice and inquiry requirements, primarily because the Riverside Department did not interview E.B.'s maternal great-grandmother regarding E.B.'s Indian

ancestry. This court agreed there was noncompliance with ICWA. We therefore conditionally reversed and remanded, limited to allowing the Riverside Department to comply with ICWA requirements. In all other regards, the judgment was affirmed. This court's decision was entered in June 2011, and the remittitur was issued September 1, 2011.

Meanwhile, in August 2011, mother filed another section 388 petition (second section 388 petition). Mother was not represented by counsel when she filed the petition. She stated in the petition that she was requesting the court to change "the last order" because she had changed and would like E.B. returned to her care. Mother asserted in her petition that she had a place for E.B. to live with her, and she had completed school. The juvenile court set a hearing on the matter on September 2, 2011. Mother, who was representing herself, did not appear at the hearing. The court clerk called mother the day of the hearing but mother did not return the call. The court continued the matter to September 9, 2011, which was after the juvenile court received the remittitur on mother's initial appeal.

On September 9, 2011, the juvenile court conducted a hearing to address the remittitur and to hear mother's second section 388 petition. Mother once again did not appear at the hearing and she was not represented at the hearing by an attorney. The juvenile court denied the petition, finding that there were no changed circumstances and granting it was not in the child's best interest. The juvenile court then addressed the remittitur. In accordance with the limited remittitur, the juvenile court ordered further compliance with ICWA, as directed by this court. The juvenile court set a .26 hearing on

December 8, 2011, solely for the purpose of determining whether the Riverside Department had fully complied with ICWA.

On November 7, 2011, mother filed a second appeal (case No. E054963), challenging the juvenile court's orders made on September 9, 2011, denying her second section 388 petition and ordering the Riverside Department to comply with ICWA in accordance with this court's June 2011 decision.

On November 30, 2011, the Riverside Department filed an addendum report addressing ICWA compliance. The report stated that on September 14, 2011, the social worker spoke to mother and E.B.'s maternal grandmother and they did not have any information regarding their Indian ancestry. The social worker also spoke to E.B.'s great-grandmother who said she had "Blackfoot" ancestry from Louisiana and Cherokee ancestry from Arkansas but did not know the name of any family member enrolled in either tribe.<sup>3</sup> E.B.'s great-grandmother suggested the social worker call her ex-husband (great-grandfather) because he was attempting to register the family in the "Blackfoot" tribe. The social worker called great-grandfather, who said his father, E.B.'s great-great-grandfather, was born on a "Blackfoot" reservation in Louisiana but currently lived in Los Angeles. Great-grandfather provided the social worker with the great-great-grandfather's address. Great-grandfather acknowledged that he was trying to get his father registered with the tribe and hoping to be granted some land.

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<sup>3</sup> Great-grandmother refers to the Blackfoot tribe, which is not a federally recognized tribe. However, the Blackfeet tribe is. (68 Fed. Reg. 68180 (Dec. 5, 2003) [listing the "Blackfeet Tribe of the Blackfeet Indian Reservation of Montana"].) Thus, we will treat the claim as raising possible Blackfeet heritage.

The Riverside Department filed an addendum report advising the juvenile court that it had noticed various Indian tribes, after interviewing E.B.'s relatives, and concluded E.B. was not ICWA eligible. The Riverside Department filed with the juvenile court copies of the notices, return receipts, and responses from the various tribes, stating that E.B. was not considered an Indian child and therefore the tribe would not be intervening in the juvenile dependency proceedings. The Riverside Department recommended reinstating the order terminating parental rights.

On December 8, 2011, the juvenile court conducted a hearing regarding ICWA compliance, as required by this court. The juvenile court found that the Riverside Department had complied with ICWA notice and ICWA did not apply to E.B. The court reinstated the November 3, 2010, order terminating parental rights. Without elaborating, mother's attorney stated she "would be objecting for the record." In February 2012, mother filed a notice of appeal of the December 8, 2011 order, reinstating the order terminating parental rights (ICWA appeal) (case No. E055673).

### III

#### ICWA APPEAL (Case No. E055673)

Mother contends the juvenile court erred in reinstating the order terminating parental rights without requiring the Riverside Department to conduct a full ICWA inquiry into E.B.'s eligibility as an Indian child. Mother complains that the Riverside Department failed to investigate great-grandfather's efforts to seek tribal enrollment of great-great-grandfather. Instead, the Riverside Department relied on a letter from the Blackfeet tribe, stating that neither E.B. nor his maternal relatives were enrolled in the

tribe, and therefore ICWA was inapplicable to E.B. Mother claims the letter from the Blackfeet tribe does not address whether E.B. is eligible for enrollment. Mother asserts that the Riverside Department should have contacted the tribe's membership or enrollment department and should have asked to see the documents great-grandfather sent to the Blackfeet tribe.

The Riverside Department argues that mother forfeited her objection to the sufficiency of the Riverside Department's ICWA investigation by not raising it at the hearing on December 8, 2011. We agree. Although during the hearing, mother's attorney stated that she objected for the record, there was no indication as to why she objected or what she objected to. Such objection was equivalent to no objection at all, since there was no indication as to what was objectionable or what should be corrected.

Under procedural facts similar to those in the instant case, the court in *In re X.V.* (2005) 132 Cal.App.4th 794 (*X.V.*) addressed the issue of whether the parents could challenge "the adequacy of ICWA notice a second time when they failed to raise any objection at the special hearing on remand." (*Id.* at p. 801.) This issue is a question of law which is reviewed de novo on appeal. (*Ibid.*) The court in *X.V.* acknowledged that "[w]hen the court has reason to know Indian children are involved in dependency proceedings . . . it has the duty to give the requisite notice itself or ensure the social services agency's compliance with the notice requirement. [Citations.] In our view, the court's duty is sua sponte, since notice is intended to protect the interests of Indian children and tribes despite the parents' inaction." [Citations.] . . . "[B]ecause the court's duty continues until proper notice is given, an error in not giving notice is also of a

continuing nature and may be challenged at any time during the dependency proceedings,’ and ‘[t]hough delay harms the interests of dependent children in expediency and finality, the parents’ inaction should not be allowed to defeat the laudable purposes of the ICWA.’ [Citation.]” (*Id.* at pp. 802-803, quoting *Dwayne P. v. Superior Court* (2002) 103 Cal.App.4th 247, 261.)

The court in *X.V.* further noted, however, that these principles generally “concerned the parents’ *first* appellate challenge to the adequacy of ICWA notice, whereas this case concerns the parents’ *second* challenge after they ignored the ICWA issue at the special hearing on remand for the specific purpose of assessing the adequacy of notice.” (*X.V.*, *supra*, 132 Cal.App.4th at p. 803.) The court in *X.V.* concluded that, “In balancing the interests of Indian children and tribes under the ICWA, and the interests of dependent children to permanency and stability, we conclude the parents have forfeited a *second* appeal of ICWA notice issues.” (*Id.* at p. 804.)

In reaching this holding, the *X.V.* court explained: “We are mindful that the ICWA is to be construed broadly [citation], but we are unwilling to further prolong the proceedings for another round of ICWA notices, to which the parents may again object on appeal. As a matter of respect for the children involved and the judicial system, as well as common sense, it is incumbent on parents on remand to assist the Agency in ensuring proper notice is given. Here, for instance, the inadequacies in the notices, a misspelling and the apparent use of a nickname, could easily have been rectified at the juvenile court given a timely objection. Moreover, Congress’s intent to not cause unnecessary delay in dependency proceedings is evidenced by the provision allowing a

hearing on the termination of parental rights within a relatively short time, 10 days, after the BIA [Bureau of Indian Affairs] or tribe receives ICWA notice. [Citation.] We do not believe Congress anticipated or intended to require successive or serial appeals challenging ICWA notices for the first time on appeal. As the Agency notes, “[a]t some point, the rules of error preservation must apply or parents will be able to repeatedly delay permanence for children through numerous belated ICWA notice appeals and writs.” (X.V., *supra*, 132 Cal.App.4th at pp. 804-805.)

The instant case, as in X.V., concerns mother’s second ICWA challenge after reversal and remand on ICWA compliance. At the special ICWA hearing on remand, mother failed to challenge or object on specific grounds to the juvenile court’s finding of ICWA notice compliance. (X.V., *supra*, 132 Cal.App.4th at p. 803.) Mother did not appear at the hearing and her attorney merely stated she objected for the record, in response to the Riverside Department attorney’s request to reinstate the order terminating parental rights. Under these circumstances, mother forfeited her objections raised in this appeal to the juvenile court’s finding of ICWA compliance and to reinstating the order terminating parental rights. Generally, failure to object to evidence at trial on a specific ground relieves the reviewing court of the obligation to consider the asserted error on appeal. (*People v. Kennedy* (2005) 36 Cal.4th 595, 612, overruled on other grounds by *People v. Williams* (2010) 49 Cal.4th 405, 459.) ““Specificity is required both to enable the court to make an informed ruling on the motion or objection and to enable the party proffering the evidence to cure the defect in the evidence.”” (*People v. Boyette* (2002) 29 Cal.4th 381, 424.) Here, mother’s attorney made a vague objection, lacking in

specificity. There was no objection asserted that the Riverside Department failed to conduct a sufficient inquiry of E.B.'s great-grandfather's efforts to enroll his father in the Louisiana Blackfeet tribe. The objection was therefore forfeited on appeal. (X.V., at pp. 804-805.)

Even if the objection was not forfeited, there is no merit to mother's objection to ICWA compliance. The Riverside Department met its burden to obtain all possible information about E.B.'s potential Indian background and provide that information to the relevant tribe or, if the tribe was unknown, to the BIA. (*In re Louis S.* (2004) 117 Cal.App.4th 622, 630.) The record shows that on remand, the Riverside Department adequately investigated E.B.'s Indian ancestry and provided proper notice to all potential Indian tribes. The noticed tribes responded that E.B. did not qualify as an Indian child. Although there was evidence E.B.'s great-grandfather was seeking enrollment of his father in the Louisiana Blackfeet tribe, the Riverside Department was not required to investigate such efforts, since proper ICWA notice was sent to the tribe and the tribe notified the Riverside Department that E.B. did not qualify as an Indian child of the tribe under ICWA. In the absence of mother objecting on specific, valid grounds, the juvenile court did not err in finding ICWA did not apply to E.B. and in reinstating the order terminating parental rights.

#### IV

#### SECTION 388 PETITION APPEAL (Case No. E054963)

Mother appeals the juvenile court's order on September 9, 2011, denying her postappeal, section 388 petition. She argues the juvenile court failed to appoint counsel

for her during the proceedings. She also argues the juvenile court committed reversible error by reinstating the order terminating parental rights before conducting a special hearing on postappeal compliance with ICWA.

*A. Failure to Appoint Counsel*

Mother contends the juvenile court's failure to appoint counsel for her during the post-appeal proceedings on her second section 388 petition violated her constitutional and statutory rights to counsel. We review this alleged error to determine if it was harmless beyond a reasonable doubt. (*In re David H.* (2008) 165 Cal.App.4th 1626, 1634.)

Mother filed her second section 388 in propria persona, in August 2011, after this court affirmed the November 3, 2010, order denying her first section 388 petition. On August 23, 2011, the juvenile court set mother's second section 388 petition for a hearing on September 2, 2011, but did not appoint an attorney for mother. When mother did not appear at the September 2, 2011, hearing, the court continued it to September 9, 2011. Mother did not appear at the hearing on September 9, 2011, and no attorney was appointed to represent her during the hearing, since she filed the petition in propria persona. The juvenile court heard and denied mother's section 388 petition, finding there were no changed circumstances and granting the petition was not in E.B.'s best interests.

Mother relies on *In re Dolly D.* (1995) 41 Cal.App.4th 440 for the proposition that she had a statutory and constitutional right to be represented by counsel during her second section 388 petition. But *Dolly D.* involves the due process right to confront and cross-examine witnesses, not the right to representation by counsel. (*Dolly D.*, at pp.

444-445.) Nevertheless, it is well established that generally parents in juvenile dependency proceedings are entitled to representation by counsel. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1662.) “California statutes and rules of court recognize the gravity of the possible deprivation involved in dependency proceedings and the importance of protecting the fundamental rights of parents and ensuring a fair and accurate adjudication. As the Supreme Court observed in *Cynthia D. v. Superior Court* [(1993) 5 Cal.4th 242,] 255, California dependency statutes strive to give parents a ‘more level playing field’ by requiring appointment of counsel when out-of-home care is recommended and at all subsequent hearings. (§ 317, subs. (b) & (d).)” (*Ibid.*)

Even assuming normally mother would be entitled to counsel when bringing a section 388 petition, here, any such error or oversight on the court’s part was harmless because the juvenile court did not have jurisdiction to hear mother’s postappeal section 388 petition. Before mother filed her second section 388 petition, the juvenile court terminated parental rights and this court affirmed the order, with the exception that judgment was reversed and remanded solely as to noncompliance with ICWA. After this court issued its decision and remanded the matter to the juvenile court on June 30, 2011, mother improperly filed the second section 388 petition. Filing the petition was improper because an order terminating parental rights is “conclusive and binding upon the child, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making the order, the juvenile court shall have no power to set aside, change, or modify it, except as provided in paragraph (2), but nothing in this section shall be construed to limit the right to appeal

the order.” (§ 366.26, subd. (i)(1).) Paragraph (2), as referenced in this statute is inapplicable. It refers to a “tribal customary adoption order.” (§ 366.26, subd. (i)(2).)

Although upon remand in case No. E052478, the juvenile court set aside the order terminating parental rights, this was limited solely to compliance with ICWA notice requirements. Once there was compliance with ICWA, the juvenile court was directed to reinstate the order terminating parental rights if it was determined that E.B. was not an Indian child. Under such circumstances, mother’s second section 388 petition was improper and should have been dismissed. Likewise, the juvenile court did not have jurisdiction to hear mother’s section 388 petition after the remittitur issued on September 1, 2011, because the remittitur limited reversal of the order terminating parental rights to ICWA compliance. Mother’s second section 388 petition was not properly before the juvenile court when it was heard and denied on September 9, 2011. It should have been dismissed because the juvenile court did not have jurisdiction to decide it. (*In re Terrance B.* (2006) 144 Cal.App.4th 965, 970-971.)

The ICWA “limited reversal approach is well adapted to dependency cases involving termination of parental rights in which we find the only error is defective ICWA notice. This approach allows the juvenile court to regain jurisdiction over the dependent child and determine *the one remaining issue.*” (*In re Francisco W.* (2006) 139 Cal.App.4th 695, 705, italics added; see also *In re Terrance B., supra*, 144 Cal.App.4th at p. 972.) No other issues, including a section 388 petition, may be considered on remand, which is limited to compliance with ICWA. “If the only error requiring reversal of the judgment terminating parental rights is defective ICWA notice and it is ultimately

determined on remand that the child is not an Indian child, the matter ordinarily should end at that point, allowing the child to achieve stability and permanency in the least protracted fashion the law permits.” (*Francisco W.*, *supra*, at p. 708; see also *In re Terrance B.*, at p. 972.)

Because mother was not entitled to a hearing on her post-appeal section 388 petition and the juvenile court did not have jurisdiction over the matter, any error in not appointing counsel for mother was harmless. (*In re David H.* (2008) 165 Cal.App.4th 1626, 1634.)

*B. Prematurely Reinstating the Order Terminating Parental Rights*

Mother argues the juvenile court committed reversible error when, at the hearing on September 9, 2011, the juvenile court reinstated the November 3, 2010, order terminating parental rights. By virtue of this court’s limited reversal of judgment for the sole purpose of ICWA compliance, the order terminating parental rights was set aside until completion of ICWA investigation and notice. During the hearing on September 9, 2011, the juvenile court denied mother’s section 388 petition and then addressed this court’s remittitur on mother’s initial appeal. The court noted that “The directions from the Court of Appeal are to notice and comply with the Indian Child Welfare Act, and take action accordingly, according to what the tribes do. If they do not intervene, the direction of the Court of Appeal is to *reinstate the parental rights*. [¶] So what I will do is, at this time I am going to *reinstate the termination of parental rights*. At this time I’m going to direct the Department to notice in compliance with the Indian Child Welfare Act pursuant to the direction of the Court of Appeals. We will set this for a .26 hearing on December

8th, 2011.”

It is apparent the juvenile court inadvertently misstated its intentions during the September 9, 2011, hearing. The court no doubt intended to say that this court directed the juvenile court to reinstate *its order terminating* parental rights if the Indian tribes did not intervene, and the juvenile court would at the time of the September 9, 2011, hearing reinstate the parental rights – not reinstate “termination” of parental rights. This is consistent with what the juvenile court in fact did during the December 8, 2011, hearing.

Furthermore, even assuming the juvenile court’s order, reinstating the November 3, 2011, order terminating parental rights, was erroneous and prematurely made before ruling on ICWA compliance on December 8, 2011, such error was harmless.

V

DISPOSITION

As to both appeals, judgment is affirmed.<sup>4</sup> We conclude the juvenile court’s order on September 9, 2011, denying mother’s second section 388 petition, and its order on

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<sup>4</sup> In case No. E054963, the Riverside Department requests this court to grant judicial notice of (1) the Riverside Department’s addendum report filed in the juvenile court, in case No. E055673, on November 30, 2011, and (2) a juvenile court minute order dated December 8, 2011, in case No. E055673, reinstating the November 3, 2010, order terminating parental rights. Because this court consolidated mother’s two appeals, case Nos. E054963 and E055673, and incorporated the record from mother’s previous appeal in case No. E052478, judicial notice of the addendum report and December 8, 2011, minute order is denied, as unnecessary. Both documents are already included in the consolidated record on appeal. The addendum report and minute order are included in the clerk’s transcript in case No. E055673.

December 8, 2011, finding ICWA compliance and reinstating the November 3, 2010, order terminating parental rights, do not constitute reversible error.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON  
J.

We concur:

HOLLENHORST  
Acting P.J.

RICHLI  
J.