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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

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

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

J.B.,

Defendant and Appellant.

E062303

(Super.Ct.No. RIJ1300660)

OPINION

APPEAL from the Superior Court of Riverside County. Jacqueline C. Jackson,  
Judge. Reversed with directions.

Lauren K. Johnson, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Gregory P. Priamos, County Counsel for Plaintiff and Respondent.

J.B., the mother of minor R.P., appealed from a judgment terminating her parental rights as to R.P. (Welf. & Inst. Code, § 366.26.) Mother filed an opening brief contending that the juvenile court failed to adequately comply with California Rules of Court, rules 5.482(c) and 5.484(c)(2) pertaining to active efforts to enroll R.P. in the Chickasaw Nation pursuant to the Indian Child Welfare Act (ICWA). (25 U.S.C. § 1901 et seq.; Cal. Rules of Court, rule 5.480 et seq.) On April 1, 2015, the parties filed a joint application and stipulation for reversal of judgment and remand. After our own careful review of the entire record, we conclude that the best interests of minor R.P. are served by final resolution of the case on the merits. We therefore reverse with the requested directions.

#### FACTS

On August 20, 2013, the juvenile court declared R.P. to be a dependent, and J.B. was offered reunification services. The court found the Department of Public Social Services (DPSS) had provided adequate notice pursuant to ICWA and that ICWA may apply.

The Chickasaw Nation responded by letter to DPSS that R.P.'s paternal great-great-grandfather was an enrolled citizen of the Chickasaw Nation. His direct descendants, including R.P. and his father, are eligible for enrollment in the tribe. The letter informed the court that in order to invoke the protections of ICWA, either: a) R.P. must be a member, or b) R.P.'s father must be enrolled in addition to R.P.'s *eligibility* for membership. The letter recommended that father or the legal guardian complete a

Certificate of Degree of Indian Blood application and citizenship form and return them to the Director of Family Services for the Chickasaw Nation who would then assist with the process. The record does not indicate what steps, if any, DPSS took to secure tribal membership for R.P. At one point, the court directed father to take the necessary steps to enroll himself and R.P. in the Chickasaw Nation. Father's counsel indicated at the hearing held August 20, 2013, that father was trying to enroll R.P. in the tribe but there were problems with the paperwork.

At the hearing held February 20, 2014, the court stated that because father had not enrolled in the Chickasaw Nation, ICWA did not apply. On October 15, 2014, the court terminated parental rights.

#### STIPULATION

A stipulated reversal under Code of Civil Procedure section 128, subdivision (a)(8) is permissible in a dependency case when the parties agree that reversible error occurred, and the stipulated reversal will expedite the final resolution of the case on the merits. (*In re Rashad H.* (2000) 78 Cal.App.4th 376, 380-382.) In the stipulation, the parties agree that the record provides insufficient evidence that DPSS provided active efforts to secure tribal membership for R.P. and that reversal of the judgment is appropriate with directions to the juvenile court to direct DPSS to make active efforts to secure membership in the tribe for R.P.

“If . . . a tribe responds indicating that the child is eligible for membership if certain steps are followed, the court must proceed as if the child is an Indian child and

direct the appropriate individual or agency to provide active efforts under rule 5.484(c) to secure tribal membership for the child.” (Cal. Rules of Court, rule 5.482(c).) California Rules of Court, rule 5.484(c)(2) defines “active efforts” as “any steps necessary to secure tribal membership for a child if the child is eligible for membership in a given tribe, as well as attempts to use the available resources of extended family members, the tribe, tribal and other Indian social services agencies, and individual Indian caregivers.”

ICWA and any state statutes or rules implementing ICWA are to be liberally construed to effectuate its purposes and preferences. (*In re Jack C.* (2011) 192 Cal.App.4th 967, 977.)

ICWA’s purpose is to protect the interests of Indian children and to promote the stability of Indian tribes and families. (*Id.*, at pp. 975-976.)

We note that the California Supreme Court is currently reviewing the validity of California Rules of Court, rules 5.482(c) and 5.484(c) in *In re Abigail A.* (2014) 226 Cal.App.4th 1450, review granted September 10, 2014, S220187. However, briefing and decision of the issue in this court and further potential review in the Supreme Court would significantly delay this matter, while stipulated reversal with directions will benefit R.P.’s interests more expeditiously. (*In re Rashad H., supra*, 78 Cal.App.4th at p. 380.)

Reversal is therefore appropriate given DPSS’s and the juvenile court’s failure to make active efforts to secure tribal membership for R.P. Although only mother appealed, the parental rights termination order must be reversed as to both mother and father. (*In re Mary G.* (2007) 151 Cal.App.4th 184, 208.)

DISPOSITION

The order terminating parental rights is reversed as to both parents.

The juvenile court is directed to order the Department to make active efforts to secure membership for R.P. in the Chickasaw Nation, in compliance with California Rules of Court, rules 5.482(c), 5.484(c)(2). If the Chickasaw Nation declares that R.P. is an Indian child as defined in ICWA or enrolls R.P. in the tribe, the juvenile court is directed to conduct a new Welfare and Institutions Code section 366.26 hearing in conformity with the provisions of ICWA. If R.P. is not enrolled in the tribe and the juvenile court determines DPSS made active efforts to achieve R.P.'s enrollment, the court is directed to reinstate all previous findings and terminate parental rights.

Pursuant to the parties' stipulation, the clerk of this court is directed to issue the remittitur immediately. (Cal. Rules of Court, rule 8.272(c)(1).)

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RAMIREZ  
P. J.

We concur:

HOLLENHORST  
J.

McKINSTER  
J.