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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.M. et al.,

Defendants and Appellants.

E065905

(Super.Ct.No. J259861)

OPINION

APPEAL from the Superior Court of San Bernardino County. Annemarie G.

Pace, Judge. Affirmed.

REQUEST FOR JUDICIAL NOTICE. Granted.

Johanna R. Shargel, by appointment of the Court of Appeal, for Defendant and
Appellant C.M.

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

Jean-Rene Basle, County Counsel, and Danielle E. Wuchenich, Deputy County Counsel, for Plaintiff and Respondent.

R.R. (father) and C.M. (mother) appeal from an order terminating their parental rights to their infant daughter, S.M. (sometimes child). Their sole appellate contention is that there was insufficient compliance with the notice and inquiry requirements imposed by the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.) (ICWA) and related federal and state law.

We will hold that, because it appears that the social worker included all available information in the ICWA notice, the notice was valid. We will further hold that, once we take judicial notice of the proceedings in the separate dependency of the father's three older children, it appears that S.M. was not an Indian child and therefore the asserted error was harmless.

I

FACTUAL AND PROCEDURAL BACKGROUND

In April 2015, when the mother gave birth to S.M., both mother and child tested positive for amphetamines. After initially denying drug use, the mother admitted using methamphetamine since she was 18 (i.e., for three years). The mother was also homeless. She claimed she did not know the father's last name.

As a result, San Bernardino County Children and Family Services (CFS) detained the child and filed a dependency petition as to her. The child was placed in a foster home.

In the process of the detention, the mother provided the father's last name and phone number. The social worker discovered that the father was a party to another dependency case involving his three older children from a previous relationship. Paternity testing later confirmed that he was indeed S.M.'s biological father.

In June 2015, at the jurisdictional/dispositional hearing, the trial court found that it had jurisdiction based on failure to protect. (Welf. & Inst. Code, § 300, subd. (b).) It also found that the father was S.M.'s presumed father. It formally removed the child from the parents' custody and it ordered reunification services for both parents.

The parents failed to comply with their reunification services plans. In December 2015, at the six-month review hearing, the trial court terminated reunification services and set a hearing pursuant to Welfare and Institutions Code section 366.26 (section 366.26).

In February 2016, the child was placed in a prospective adoptive home. In April 2016, at the section 366.26 hearing, the trial court ordered a permanent plan of adoption and terminated parental rights. Both parents filed notices of appeal.

II

ICWA NOTICE ISSUES

A. *Additional Factual and Procedural Background.*

1. *ICWA proceedings in the previous dependency.*

The facts in this subpart are taken from records of which we will take judicial notice. (See part II.B.5.b.i, *post.*)

Like this dependency, the earlier dependency regarding the father's three older children was filed in San Bernardino Superior Court. In that proceeding, the father filled out a "Parental Notification of Indian Status" (ICWA-020) form stating that he had "Yaqui" ancestry.

CFS gave notice for the purpose of compliance with ICWA. The notice was sent to, among others, the Pascua Yaqui Tribe (Tribe) and the Bureau of Indian Affairs (BIA). It included information regarding the father, including his name, date of birth, current address, and former addresses. It also included his mother's name and birthplace; his father's name and birthplace; and his paternal grandfather's name.

The Tribe responded, "Based upon the family information provided and the current enrollment records, the children are not eligible for membership and the Tribe will not intervene in this matter." The trial court found that notice had been given as required by ICWA and that ICWA did not apply.

2. *ICWA proceedings in the current dependency.*

In this case, on April 15, 2015, the father told the social worker that he had Yaqui ancestry. The father filled out an ICWA-020 form stating that he had “Yuci” ancestry. He also stated (by checking a box) that “[a] previous ICWA-020 has not been filed with the court.”

At the detention hearing, there was this exchange:

“[THE COURT:] Mr. R[.], anyone in your family a Native American or an American Indian?

“THE FATHER: My father.

“THE COURT: And that’s the tribe Yaqui Tribe.

“THE FATHER: Yes.

“THE COURT: And any other tribe?

“THE FATHER: No.

“THE COURT: And who in your family could the social worker talk to in addition to yourself with respect to getting information on the tribal affiliation and tribal membership and these kinds of questions?

“THE FATHER: They’re all deceased. I’m the only one.

“THE COURT: No other family to talk to about it?

“THE FATHER: No.

“THE COURT: All right. I will just order you [to] cooperate with the social worker and be able to speak with the social worker concerning your Indian heritage.”

In May 2015, CFS gave notice for the purpose of compliance with ICWA. The notice was sent to, among others, the Tribe and the BIA. It gave the father's name and birthdate, but all other information regarding the father and his ancestors was listed as "No information available."

Sometime later in May, the Tribe responded: "Based upon the family information provided and the current enrollment records, the child is not eligible for membership and the Tribe will not intervene in this matter."

In July 2015, the trial court entered an order finding that notice had been given as required by ICWA and that ICWA did not apply (ICWA order).

Thereafter, in April 2016, at the section 366.26 hearing, the trial court terminated parental rights.

B. The Parties' Contentions.

Both parents contend that the trial court erred by finding that notice in compliance with ICWA had been given. CFS not only opposes this contention on the merits, but also raises the following preliminary contentions:

1. This court lacks jurisdiction because the parents failed to specify the trial court's ICWA order in their notices of appeal.
2. The father's appeal should be dismissed under the disentitlement doctrine.
3. The father is collaterally estopped to claim that S.M. is an Indian child.
4. The parents forfeited their ICWA claim by failing to object below and by failing to file a timely appeal from the ICWA order.

We will discuss these seriatim.

1. *Appealability.*

CFS contends that we lack jurisdiction because the parents failed to specify the ICWA order in their notices of appeal.

A notice of appeal must “identif[y] the particular judgment or order being appealed.” (Cal. Rules of Court, rule 8.100(a)(2).) Even more important, in a juvenile dependency case, subject to exceptions not applicable here, “a notice of appeal must be filed within 60 days after the rendition of the judgment or the making of the order being appealed.” (Cal. Rules of Court, rule 8.406(a)(1).) The trial court entered its ICWA order on July 29, 2015. The parents filed their notices of appeal on April 27 and April 28, 2016. Thus, even if the notices of appeal had specified the ICWA order (or could be liberally construed as appealing from the ICWA order), they were filed too late to be effective.¹

Recently, however, the Supreme Court held that, “[b]ecause ICWA imposes on the juvenile court a continuing duty to inquire whether the child is an Indian child,” a parent who failed to appeal from a finding that ICWA did not apply can nevertheless challenge

¹ This assumes that the ICWA order was separately appealable. (See *A.M. v. Superior Court* (2015) 237 Cal.App.4th 506, 512 [in dependency, the dispositional order is the final judgment; subsequent orders, subject to exceptions, are appealable as orders after judgment] [Fourth Dist., Div. Two].) Even if not, however, the ICWA order could have been challenged in an appeal from the next appealable order. (See *In re S.B.* (2009) 46 Cal.4th 529, 534.) That was the order at the six-month review hearing entered on December 15, 2015. Thus, the notices of appeal were still filed too late.

that finding in an appeal from a subsequent order terminating parental rights. (*In re Isaiah W.* (2016) 1 Cal.5th 1, 6.) Here, identically, the trial court had a continuing duty to inquire whether the child was an Indian child. If no adequate inquiry had been made, then it erred by terminating parental rights. The order terminating parental rights included an implied finding that an adequate inquiry had been made, which the parents can challenge in this appeal.

2. *The disentitlement doctrine.*

CFS contends that the father's appeal should be dismissed under the disentitlement doctrine.

Under the disentitlement doctrine, "an appellate court may stay or dismiss an appeal by a party who has refused to obey the trial court's legal orders." (*In re A.K.* (2016) 246 Cal.App.4th 281, 284.) "' . . . In dependency cases, the doctrine has been applied only in cases of the most egregious conduct by the appellant, which frustrates the purpose of dependency law and makes it impossible to protect the child or act in the child's best interests. [Citations.]'" (*Id.* at p. 285.)

CFS cites three instances in which the father has supposedly refused to obey the trial court's orders.

First, on his ICWA-020 form, he stated, "A previous ICWA-020 has not been filed with the court." CFS claims this was false, because he had filed an ICWA-020 form in the dependency of his three older children. It argues: "If father had been truthful and

cooperative, CFS could have copied the information from the previously filed ICWA-020.”

Dishonesty — even if it rises to the level of perjury — is not the same thing as a refusal to obey a trial court’s order. CFS has not cited any authority for applying the disentitlement doctrine based on a false statement, nor has our independent research revealed any. It cannot be argued that the false statement somehow violated an order to fill out the ICWA-020, because the father had not yet been ordered to do so.

In any event, the recital on the form was ambiguous. It could reasonably be understood to mean that no previous ICWA-020 form has been filed with the court *in this case*. Thus, we cannot say that this was particularly egregious conduct.

In addition, it did not substantially interfere with the proceedings. CFS was free to interview the father in an effort to obtain all of the information that was in the previous form.

Second, at the disposition hearing, the trial court told the father, “I . . . order you to cooperate with the social worker and be able to speak with the social worker concerning your Indian heritage.” CFS states, “There is no indication in the record that father complied with this order.” It also cites a social worker’s report stating that the father had failed to meet with the social worker or to return her phone calls.

We want to make one thing clear (as CFS does not) — as so often happens in dependency cases, there was more than one social worker. In April 2015, when the detention report was filed, the social worker assigned to the case was Aleida Murcia. By

May 2015, when the jurisdictional/dispositional report was filed, it was Kari DeMayo. Later in May 2015, she was replaced by a third social worker, Margarita Dominguez. Around the same time, CFS sent the ICWA notice. Finally, in December 2015, in the six-month review hearing report, Dominguez noted that “[t]he father has never attempted to meet with this undersigned.” This falls short of showing that he did not meet with Murcia or Mayo before the ICWA notice was sent.

Nevertheless, there is some evidence that the father did not cooperate with the social worker — the ICWA notice itself. Aside from the father’s name and birth date, most of the information about him and his ancestors is marked, “No information given.” A CFS employee verified the notice under penalty of perjury. In the absence of evidence to the contrary, we must presume that CFS carried out its duty of inquiry. (Evid. Code, § 664; *In re Rebecca R.* (2006) 143 Cal.App.4th 1426, 1430.) Thus, it is reasonably inferable that the father failed or refused to give the social worker the necessary information.

Once again, however, the father’s failure to cooperate did not substantially interfere with the proceedings. As we will discuss in more detail in part II.B.5.a, *post*, an ICWA notice must contain information about the child’s parents and more remote ancestors only if known. Thus, if the father did not reveal this information, the notice did not have to include it.

Third, CFS points out that the father failed to comply with his reunification plan; among other things, he missed visits with S.M. CFS argues that, “[i]f father had visited

[S.M.], the social worker would have had the opportunity to meet him and could have asked about his Indian heritage.”²

However, “reunification orders are unlike orders in other types of civil cases.” (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1233.) “[I]t is not the court’s role to force a parent to participate in services. ‘It is . . . well established that “[r]eunification services are voluntary, and cannot be forced on an unwilling or indifferent parent. [Citation.]” [Citation.]’ [Citations.]” (*Ibid.*) “[T]he dependency statutes repeatedly make clear that the consequence of failure to participate in court-ordered reunification services is the loss of parental rights.” (*Id.* at pp. 1235-1236.) Accordingly, the failure to participate in treatment pursuant to a reunification order cannot be punished as contempt. (*Id.* at p. 1226.) We conclude that it also cannot be punished under the disentitlement doctrine.

We therefore conclude that the disentitlement doctrine does not bar the father’s appeal.

Finally, we note that the disentitlement doctrine does not even arguably apply to the mother; she is entitled to appeal. When a child has two legal parents, the juvenile court cannot terminate the parental rights of one alone; it must terminate the parental rights of both or neither. (Cal. Rules of Court, rule 5.725(g).) Thus, if we must reverse

² It is not at all clear that this is true. The trial court ordered the father’s visitation to be “supervised by CFS . . . or delegate.” It appears that, although visits may have taken place at the CFS office, they were supervised by the foster parent, not the social worker.

the order terminating parental rights as against the mother, we must also reverse it as against the father — the disentitlement doctrine notwithstanding.

3. *Collateral estoppel against the father.*

Based on the finding in the earlier dependency that ICWA did not apply to the father's three older children, CFS contends that the father is collaterally estopped to claim that ICWA applies to S.M.

We may assume, without deciding, that the father is collaterally estopped. Even if so, however, the mother is not, because she was not a party or in privity with a party to that separate dependency. (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 985.) Moreover, even though the mother is not herself Indian, a non-Indian parent “has standing to assert an ICWA notice violation on appeal.” (*In re Jonathon S.* (2005) 129 Cal.App.4th 334, 339.)

Finally, we note, once again, that even if collateral estoppel did apply to the father, the mother would have standing to appeal, and a reversal as to the mother would require a reversal as to the father. (See part II.B.2, *ante.*)

4. *Forfeiture.*

CFS contends that the parents forfeited their ICWA claim by failing to object below and by failing to file a timely appeal from the ICWA order.

A parent can raise an ICWA notice issue for the first time on appeal. “The notice requirements serve the interests of the Indian tribes “irrespective of the position of the parents” and cannot be waived by the parent. [Citation.]’ [Citation.] Thus, ‘where the

notice requirements of the Act were violated and the parents did not raise that claim in a timely fashion, the waiver doctrine cannot be invoked to bar consideration of the notice error on appeal.’ [Citation.]” (*In re Suzanna L.* (2002) 104 Cal.App.4th 223, 231-232.)

Moreover, as noted in part II.B.1, *ante*, the Supreme Court recently held that a parent who failed to appeal from a finding that ICWA did not apply can still challenge that finding in an appeal from a subsequent order terminating parental rights. (*In re Isaiah W.*, *supra*, 1 Cal.5th at p. 6.)

5. *Substantive ICWA issues.*

This brings us to the parents’ contention that the ICWA notice was inadequate.

Rather conspicuously, CFS does not even argue that the ICWA notice was adequate, nor does it argue that the defects in the notice, if any, were harmless. However, we do not take this to be a confession of error. Even a total failure to file a respondent’s brief “will not be treated as a ‘default’ in the sense of conceding lower court error on the appealed matter and mandating automatic reversal.” (Eisenberg et al., *Cal. Practice Guide: Civil Appeals and Writs* (The Rutter Group 2016) ¶ 9:193, pp. 9-53, 9-54.) Instead, we analyze the issues without the assistance of CFS.

a. *The adequacy of the notice.*

“Congress enacted ICWA to further the federal policy “that, where possible, an Indian child should remain in the Indian community” [Citation.]” (*In re W.B.* (2012) 55 Cal.4th 30, 48.) An “Indian child” is an unmarried child who is “either (a) a member of an Indian tribe or (b) . . . eligible for membership in an Indian tribe and . . .

the biological child of a member of an Indian tribe” (25 U.S.C. § 1903(4); accord, Welf. & Inst. Code, § 224.1, subds. (a), (b).)

“The court [and the] county welfare department . . . have an affirmative and continuing duty to inquire whether a child for whom a petition under Section 300 . . . is to be, or has been, filed is or may be an Indian child” (Welf. & Inst. Code, § 224.3.)

Whenever “the court knows or has reason to know that an Indian child is involved,” notice of the proceedings must be given to the relevant tribe or tribes. (25 U.S.C. § 1912(a); accord, Welf. & Inst. Code, § 224.2, subd. (a); Cal. Rules of Court, rule 5.481(b)(1).) “[T]he juvenile court needs only a suggestion of Indian ancestry to trigger the notice requirement. [Citation.]” (*In re Miguel S.* (2016) 248 Cal.App.4th 164, 170, fn. 1.)

“The purpose of the ICWA notice provisions is to enable the tribe . . . to investigate and determine whether the child is in fact an Indian child. [Citation.] Notice given under ICWA must therefore contain enough information to permit the tribe to conduct a meaningful review of its records to determine the child’s eligibility for membership. [Citations.]” (*In re Cheyanne F.* (2008) 164 Cal.App.4th 571, 576.) “It is essential to provide the Indian tribe with all available information about the child’s ancestors, especially the one with the alleged Indian heritage. [Citation.]” (*In re Francisco W.* (2006) 139 Cal.App.4th 695, 703.)

Under federal law, an ICWA “[n]otice . . . shall include the following information, *if known*: [¶] . . . [¶] . . . All names . . . and current and former addresses of the Indian

child’s biological mother, biological father, maternal and paternal grandparents and great grandparents or Indian custodians, including maiden, married and former names or aliases; birthdates; places of birth and death; tribal enrollment numbers, and/or other identifying information.” (25 C.F.R. § 23.11(d)(3), italics added.)

Similarly, under state law, an ICWA notice must include information regarding “the Indian child’s biological parents, grandparents, and great-grandparents . . . *if known.*” (Welf. & Inst. Code, § 224.2, subd. (a)(5)(C).)

“We review the trial court’s findings whether proper notice was given under ICWA and whether ICWA applies to the proceedings for substantial evidence. [Citation.]’ [Citation.]” (*In re Miguel S., supra*, 248 Cal.App.4th at p. 170.) “On review of the sufficiency of the evidence, we presume in favor of the order, considering the evidence in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order.’ [Citation.]” (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1525.) “Mere support for a contrary conclusion is not enough to defeat the finding [citation]; nor is the existence of evidence from which a different trier of fact might find otherwise in an exercise of discretion [citation].” (*In re H.E.* (2008) 169 Cal.App.4th 710, 724.)

As mentioned earlier (see part II.B.2, *ante*), based on the official duty presumption (Evid. Code, § 664), we must presume that the social worker interviewed (or at least made reasonable efforts to interview) the father. The ICWA notice then stated, under penalty of perjury, that there was “[n]o information given” about the father’s ancestors.

It is reasonably inferable that either the father avoided meeting with the social worker or else he met with her but failed or refused to provide any more information.

A county welfare department has a duty to interview, not only the parents, but also extended family members “and any other person that reasonably can be expected to have information regarding the child’s membership status or eligibility.” (Welf. & Inst. Code, § 224.3, subd. (c).) Here, however, there was nobody else for the social worker to interview. The father affirmatively represented to the trial court that all of the relevant members of his family were deceased and that he was the only person who had any information about his Indian ancestry.

We know of no requirement that the county welfare department must file documentation with the trial court showing whom it interviewed. If the parents had raised the ICWA notice issue in the juvenile court, they could have subpoenaed CFS employees and questioned them about their inquiry (or lack thereof). In that event, of course, CFS could also have introduced additional evidence to show that it made an adequate inquiry. Instead, the parents lay in wait and did not spring this issue until the matter was on appeal. At this point, they must take the record as they find it. As long as there is *substantial* evidence of ICWA compliance, the fact that the CFS did not introduce *additional* evidence is beside the point

The notice therefore complied with ICWA and related federal and state law because it contained all of the information known, after reasonable inquiry by CFS, about the father’s ancestors.³

b. *Harmless error.*

“A notice violation under ICWA is subject to harmless error analysis. [Citation.]” (*In re Autumn K.* (2013) 221 Cal.App.4th 674, 715.) “Deficiencies in ICWA inquiry and notice may be deemed harmless error when, even if proper notice had been given, the child would not have been found to be an Indian child. [Citations.]” (*In re D.N.* (2013) 218 Cal.App.4th 1246, 1251.)

i. *Request for judicial notice.*

CFS has filed a request for judicial notice of certain ICWA-related documents filed in the earlier dependency relating to the father’s three older children. We summarized the content of these documents in part I.A.1, *ante*. The father has opposed this request.

The documents are court records, which are ordinarily judicially noticeable. (Evid. Code, §§ 452, subd. (d)(1), 459, subd. (a)(2).) Moreover, under these circumstances, they are judicially noticeable specifically to show harmless error. This was the holding of *In re Z.N.* (2009) 181 Cal.App.4th 282.

³ The father, noting that he stated in his ICWA-020 form that he had “Yuci” ancestry, contends that notice should have been sent to any tribe affiliated with the Yuchi Indians. At the detention hearing, however, he confirmed that he was referring to the Yaqui tribe. Thus, it is clear that this was just a matter of bad spelling.

In *In re Z.N.*, the mother claimed to have Apache and Cherokee ancestry. However, the record did not show that any ICWA notice had ever been given. (*In re Z.N.*, *supra*, 181 Cal.App.4th at p. 297.) The social services agency asked the appellate court to take judicial notice that, in a dependency involving the child's half-siblings by the same mother, ICWA notices had been sent to the Apache and Cherokee tribes; those tribes had either failed to respond at all or else responded that the half-siblings were not members or eligible for membership; and the trial court had found that ICWA did not apply. (*Id.* at p. 301; see also *id.* at p. 285.)

The appellate court held that it could take the requested judicial notice to show that the error was harmless. (*In re Z.N.*, *supra*, 181 Cal.App.4th at pp. 298-299.) It criticized the reasoning in *In re Robert A.* (2007) 147 Cal.App.4th 982, which had refused to take judicial notice for the same purpose. (*In re Z.N.*, *supra*, at pp. 299-301.) It concluded: ““To the extent that [*Robert A.*] cannot be factually distinguished from the present case, we respectfully disagree based on considerations of judicial economy, the assured futility of providing identical notice . . . , and the children's need for stability.”” (*In re Z.N.*, *supra*, at p. 300; see also *id.* at p. 301.)

The court then held, based on the judicial noticed matters, that the failure to give ICWA notice in the case before it was harmless: “[W]e find no argument at all that the notices [in the other dependency] were in any way deficient or misdirected, or that any response was uninformed. That being so, we accept the determinations, which show no Cherokee or Apache membership or eligibility for the half siblings, based in part on

mother's information. It follows that there is no reason to believe that the result would be any different if the notices were re-issued on remand for an assessment based on mother's information alone." (*In re Z.N.*, *supra*, 181 Cal.App.4th at p. 302; see also *In re J.M.* (2012) 206 Cal.App.4th 375, 383 [where ICWA notice was given as to one sibling, failure to give notice as to other sibling was harmless error]; *In re E.W.* (2009) 170 Cal.App.4th 396, 400-402 [same].)

We agree with *In re Z.N.* and with its reasons for rejecting *Robert A.* The father argues that, in the absence of compliance with ICWA notice requirements, a hearing is not supposed to go forward. However, this goes to whether there was error, not whether the error was prejudicial. *In re Z.N.* rejected *Robert A.* in part because it relied on similar reasoning. (*In re Z.N.*, *supra*, 181 Cal.App.4th at p. 299.)

The father also relies on the principle that "[r]eviewing courts generally do not take judicial notice of evidence not presented to the trial court' absent exceptional circumstances. [Citation.]" (*Haworth v. Superior Court* (2010) 50 Cal.4th 372, 379.) Under *In re Z.N.*, however, the very fact that that the judicial notice shows that an asserted ICWA error is harmless is a sufficiently extraordinary circumstance.

Next, the father argues that "judicial notice may be taken of a factual finding in another proceeding but not the truth of that finding." Actually, the rule is that "a court cannot take judicial notice of hearsay allegations in a court record, [but] it can take judicial notice of the truth of facts asserted in documents such as orders, findings of fact and conclusions of law, and judgments. [Citation.]" (*Hawkins v. SunTrust Bank* (2016)

246 Cal.App.4th 342, 347.) In any event, we do not propose to take judicial notice of the truth of the finding that ICWA did not apply. We need only take judicial notice that the various tribes took the position — whether true or not — that the children were not members or eligible to be members. It is reasonable to conclude that they would do the same in this case.

Finally, the father argues that the request for judicial notice is “incomplete” because it does not include a reporter’s transcript. However, we fail to see why a reporter’s transcript is necessary or even relevant.

Accordingly, we will grant the request for judicial notice.

ii. *The judicially noticed material shows harmless error.*

In the earlier dependency concerning S.M.’s older half-siblings, the social worker did interview the father and did get responses from him, as shown by the fact that the ICWA notice included additional information. That notice was sent to the same tribe as in this case. However, the Tribe responded that the half-siblings were not members or eligible to become members. This demonstrates that, even absent the asserted errors in the ICWA notice, S.M. would not have been found to be an Indian child. Hence, these errors were harmless.

III

DISPOSITION

CFS’s request for judicial notice is granted. The order appealed from is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

CODRINGTON
J.