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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re ANTHONY E. et al., Persons Coming
Under the Juvenile Court Law.

FRESNO COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Plaintiff and Respondent,

v.

STEPHANIE E.,

Defendant and Appellant.

F066110

(Super. Ct. Nos. 11CEJ300265-1,
11CEJ300265-2, 11CEJ300265-3,
11CEJ300265-4)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Mary Dolas,
Commissioner.

Michelle E. Danley, under appointment by the Court of Appeal, for Defendant and
Appellant.

Kevin Briggs, County Counsel, William G. Smith, Deputy County Counsel, for
Plaintiff and Respondent.

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* Before Wiseman, Acting P.J., Levy, J., and Detjen, J.

Appellant Stephanie E. (mother) appeals from a dispositional order of the juvenile court. Mother's sole claim on appeal is for noncompliance with the notice requirements of the Indian Child Welfare Act (ICWA). (25 U.S.C. § 1901 et seq.) Respondent Fresno County Department of Social Services (Department) concedes that its ICWA-noticing effort was inadequate for failure to give notice to the Ramah Navajo School Board, Inc. Accordingly, we vacate the determination that ICWA does not apply to the minors David L. and Leo E. and remand with directions to the juvenile court to comply with ICWA.

FACTUAL AND PROCEDURAL HISTORIES

Mother's four children, Anthony E., David L., Leo E., and Hector C., were detained in December 2011 and placed in foster care. The Department filed a petition alleging failure to protect based on mother's ongoing domestic violence with her father, the minors' maternal grandfather. (Welf. & Inst. Code, § 300, subd. (b).) In April 2012, mother submitted the petition on the social worker's reports, and the court exercised its dependency jurisdiction over the minors.

Mother named Francisco L. as the father of David L. and possible father of Leo E. (Anthony E. and Hector C. have different fathers.) Francisco L. reported that he may be of the Apache, Navajo, Pima, and/or Yaqui tribes. In May 2012, the Department filed with the court a "Notice of Child Custody Proceeding for Indian Child," form ICWA-030. It gave notice that David L. and Leo E. may be eligible for membership in the Apache, Navajo, Pima, and/or Yaqui tribes and identified 13 different tribes—eight Apache tribes, two Navajo tribes, two Pima tribes, and one Yaqui tribe. The Department sent the notice to these 13 tribes on April 24, 2012. The Department did not identify or send notice to the Ramah Navajo School Board, Inc.

In June 2012, the Department filed a motion to declare ICWA inapplicable to David L. and Leo E. Five tribes had not responded to the notice, and eight tribes had responded that the children were not eligible for membership. While the motion was pending, the Department received notice from three more tribes, each indicating that the

children were not eligible for membership. On October 3, 2012, at the hearing on disposition, the juvenile court found that ICWA was not applicable.

Mother filed a notice of appeal on November 15, 2012.

DISCUSSION

ICWA sets forth minimum federal substantive and procedural standards to protect the interests of Indian children and to promote the stability and security of Indian families and Indian tribes. (*In re Kahlen W.* (1991) 233 Cal.App.3d 1414, 1421.) In dependency proceedings, if a social worker has reason to know that an Indian child may be involved, that person must make further inquiry by, among other things, contacting the tribes and any other person that reasonably could be expected to have information regarding the child's membership status or eligibility. (Cal. Rules of Court, rule 5.481(a)(4)(C).)

Mother points out that the Department failed to meet the notice requirement because no notice was sent to Ramah Navajo School Board, Inc., a federally recognized Navajo tribe. The Department concedes that it failed to give ICWA notice to the Ramah Navajo School Board, Inc., and that its failure violated the notice requirements of ICWA. The appropriate remedy is to remand for ICWA compliance. (*In re Veronica G.* (2007) 157 Cal.App.4th 179, 188.)

DISPOSITION

The court's determination that ICWA is inapplicable with respect to David L. and Leo E. is vacated and the matter is remanded to the juvenile court with directions to comply with the notice provisions of ICWA.