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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re S. C., et al., Persons Coming Under the Juvenile Court Law.	H040379 (San Benito County Super. Ct. No. JV-11-00022-C,D,E)
SAN BENITO COUNTY HEALTH & HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. S.G., Defendant and Appellant.	

Appellant mother, S.G., appeals from an order terminating her parental rights (Order) as to her three children, S.C., J.Q. and A.K., pursuant to Welfare and Institutions Code section 366.26 (§ 366.26). On appeal she claims that the San Benito County Health and Human Services Agency (Agency) and the juvenile court failed to comply with the Indian Child Welfare Act (ICWA) as to one of the children, A.K. She seeks a limited reversal of the Order, and requests that the case be remanded to the trial court to comply with ICWA as to A.K.

During the course of the dependency, the appellant filed a "Parental Notification of Indian Ancestry" indicating that she had Cherokee ancestry. A.K,'s father informed

the social worker during a telephone conversation that he might have Apache ancestry. Although the Agency sent notices to the Cherokee tribes as to the A.K.'s siblings, and to the Apache tribes as to A.K., the Agency failed to send notices to the proper Cherokee tribes as to A.K.

At a hearing on March 25, 2013, the juvenile court adopted the recommended findings and orders in the Agency's report and found that the ICWA did not apply to any of the children. There was no discussion on the record regarding the applicability of the ICWA or the sufficiency of the notice provided to the tribes. On appeal, appellant contends that the court's finding that the Agency complied with the notice requirements of ICWA is not supported by substantial evidence.

After the appellant filed an opening brief on appeal, instead of filing a respondent's brief conceding the issue on appeal, respondent filed a motion for stipulated reversal of the judgment. The reason that the parties seek a stipulated reversal, as outlined in the application and stipulation for reversal of judgment, is that all parties will benefit from an expeditious resolution, without the need to pursue an appellate remedy.

The parties' application and stipulation supports the conclusion that a stipulated reversal is appropriate under the facts of this case and the law. (See Code Civ. Proc., § 128, subd. (a)(8).) For the reasons stated in the motion for stipulated reversal, the court finds that there is no possibility that the interests of nonparties or the public will be adversely affected by the reversal.

This court further finds that the parties' grounds for requesting reversal are reasonable, and in the interests of justice because a stipulated reversal will avoid further delay of finality for the child. These grounds outweigh the erosion of public trust that may result from the nullification of a judgment, and outweigh the risk that the availability of a stipulated reversal will reduce the incentive for pretrial settlement.

DISPOSITION

The judgment is reversed pursuant to the stipulation of the parties. The juvenile court is directed to order the Agency to make proper inquiry in compliance with the notice provisions of the ICWA. If after proper inquiry and notice, a tribe determines that the minors are Indian children as defined by the ICWA, the juvenile court is ordered to conduct a new section 366.26 hearing in conformity with all provisions of the ICWA. If no response is received or the tribes determine that the children are not Indian children, the juvenile court shall reinstate all previous findings and orders. The remittitur shall issue forthwith.

RUSHING, P.J.

WE CONCUR:

PREMO, J.

ELIA, J.