

CALIFORNIA COURT OF APPEAL

Riverside County Department of Public Social Services v. Patricia K.

164 Cal. App. 4th 571 (Cal. Ct. App. 2008) · Decided June 6, 2008

SUMMARY

The California Court of Appeal considered whether deficiencies in notices issued under the Indian Child Welfare Act and California Welfare and Institutions Code section 224.2 required reversal of an order terminating parental rights. The court held that omissions concerning the non-Indian mother’s family information were subject to harmless-error review because the Blackfeet Tribe received notice, and found no prejudice. The order terminating parental rights was affirmed.

CASE DETAILS

COURT	California Court of Appeal
WRITING FOR THE COURT	McKinster, J.; Hollenhorst, Acting P. J.; Richli, J.
JURISDICTION	California
DECIDED	June 6, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Patricia K. appealed from a juvenile court order terminating her parental rights under Welfare and Institutions Code section 366.26, challenging the finding that the Indian Child Welfare Act did not apply because the ICWA notices omitted information concerning her and her family.
STANDARD OF REVIEW	Alleged errors or omissions in ICWA notice are reviewed under the harmless-error standard when the notice was received by the tribe.
PRECEDENTIAL VALUE	published and precedential California Court of Appeal opinion
PARTIES	Patricia K. v. Riverside County Department of Public Social Services

TOPICS

- indian child welfare act
- parental rights
- appellate procedure
- harmless error
- statutory interpretation

PRACTICE AREAS

- dependency and juvenile law
- Indian Child Welfare Act
- parental rights
- appellate procedure

QUESTIONS PRESENTED

1. Whether omissions of known information concerning a child's non-Indian parent and maternal relatives from ICWA notices require reversal without a showing of prejudice.
2. Whether the ICWA and California Welfare and Institutions Code section 224.2 impose a heightened or strict-compliance rule that precludes application of harmless-error principles to deficient ICWA notice.

HOLDINGS

1. When ICWA notice has been received by the tribe, errors or omissions in the notice are reviewed for harmless error; reversal is not automatic merely because the notice was deficient.
2. Section 224.2 requires inclusion of known information about the child's parents, grandparents, and great-grandparents, but it does not override existing California law permitting harmless-error treatment of ICWA notice omissions.

KEY QUOTATIONS

“We disagree that ICWA mandates reversal, without regard to prejudice, if there is any deficiency in the notice given to the tribe or the BIA.” (576)

“However, Patricia does not cite any authority which suggests that, in enacting section 224.2, the Legislature intended to override existing case law, cited and discussed above, which holds that errors and omissions in an ICWA notice may be deemed harmless under some circumstances.” (578)

FACTUAL BACKGROUND

Cheyenne was removed from Patricia's care immediately after birth because of Patricia's longstanding drug abuse and methamphetamine use during pregnancy. The juvenile court denied Patricia reunification services based on her failure to reunify with four older children and her continuing drug abuse, while the father's services were later terminated for nonparticipation. The county's ICWA notices included the father's reported Blackfeet ancestry but omitted nearly all known information concerning Patricia, including her place of birth and the names of her parents and grandparents. The Blackfeet Tribe stated that it could not determine Cheyenne's eligibility without additional extended-family information, but the father and his mother could not provide further information about the father's family.

PROCEDURAL HISTORY

The juvenile court declared Cheyenne a dependent, denied Patricia reunification services, and later terminated both parents' parental rights, selecting adoption as the permanent plan. Before the section 366.26 hearing, the county sent ICWA notices to the Blackfeet Tribe, the Bureau of Indian Affairs, and Indian Child and Family Services. The juvenile court found that ICWA did not apply, and Patricia appealed. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Antoinette S., 104 Cal. App. 4th 1401, 1412-1414 (2002)
- Nicole K. v. Superior Court, 146 Cal. App. 4th 779, 784 (2007)
- In re Junious M., 144 Cal. App. 3d 786, 794 (1983)
- In re Kahlen W., 233 Cal. App. 3d 1414, 1421 (1991)
- In re Jennifer A., 103 Cal. App. 4th 692, 705 (2002)
- In re Francisco W., 139 Cal. App. 4th 695, 703 (2006)
- In re Louis S., 117 Cal. App. 4th 622, 631 (2004)
- Santa Clara Pueblo v. Martinez, 436 U.S. 49, 51 (1978)
- In re S.B., 130 Cal. App. 4th 1148, 1162 (2005)
- In re J.T., 154 Cal. App. 4th 986, 993 (2007)
- In re Mary G., 151 Cal. App. 4th 184, 209 (2007)

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