

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION
THREE

In re A.T.

No. A160454 (Cal. Ct. App. Apr. 20, 2021) · No. A160454 · Decided April 20, 2021

SUMMARY

The California Court of Appeal affirmed dismissal of a dependency proceeding involving a child taken from Washington to California by the mother. The court held that the Indian Child Welfare Act did not apply because the child was placed with his nonoffending father, and that the juvenile court properly applied the Uniform Child Custody Jurisdiction and Enforcement Act in favor of the preexisting Washington family court proceedings.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Three
WRITING FOR THE COURT	Wiseman, J.; Fujisaki, Acting P.J.; Jackson, J.
JURISDICTION	California
DECIDED	April 20, 2021
DOCKET	A160454
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed the juvenile court's order dismissing a California dependency action in favor of preexisting family court proceedings in Washington and finding the Indian Child Welfare Act inapplicable.
STANDARD OF REVIEW	De novo review applies to the interpretation and application of statutory law to undisputed facts.
PRECEDENTIAL VALUE	published and certified for publication
PARTIES	A.T.'s mother v. Sonoma County Human Services Department

TOPICS

- indian child welfare act
- tribal jurisdiction
- child custody
- appellate procedure
- statutory interpretation

PRACTICE AREAS

- family law
- child custody
- juvenile dependency
- Indian Child Welfare Act
- appellate procedure

QUESTIONS PRESENTED

1. Whether ICWA applied to the dependency proceeding when A.T. was removed from Mother's custody and placed with Father, the nonoffending parent.
2. Whether the juvenile court properly dismissed the dependency action under the UCCJEA in favor of the preexisting Washington family court proceedings.
3. Whether the juvenile court improperly made a permanent custody award or otherwise lacked authority to leave A.T. with Father after dismissing the dependency case.

HOLDINGS

1. ICWA does not apply where an Indian child is removed from one parent and placed with the nonoffending parent, when neither the court nor the social-services agency pursued foster care, guardianship, termination, or adoptive placement.
2. Because ICWA did not govern the proceeding, the juvenile court properly applied the UCCJEA and dismissed the dependency action in favor of the Washington family court, which had continuing exclusive jurisdiction.
3. The juvenile court did not make a permanent custody award; Father's custody arose from the existing Washington family court orders, and the California court merely terminated its emergency jurisdiction.

KEY QUOTATIONS

"By expressly including certain placements, the Legislature impliedly excluded others, such as placement with a parent." (at 7-8)

"In sum, ICWA did not apply, so the court properly applied the UCCJEA and dismissed the action in favor of the Washington family court proceedings." (at 10)

FACTUAL BACKGROUND

A.T. lived in Washington with his parents until Mother, who had significant untreated mental-health symptoms, took him to California in violation of Washington family court custody orders. After the Sonoma County Human Services Department filed a dependency petition based on the risk posed by Mother's mental-health condition, the juvenile court detained A.T. and ultimately placed him with Father, the nonoffending parent. The Washington family court had issued custody orders, found Mother in contempt, and ordered A.T. returned to Father's care in Washington. The Wiyot Tribe intervened and Mother argued that ICWA required California to retain the dependency proceeding.

PROCEDURAL HISTORY

The Sonoma County juvenile court exercised emergency jurisdiction after Mother brought seven-year-old A.T. from Washington to California in violation of Washington custody orders. The court detained A.T., temporarily placed him with a maternal relative, and then placed him with Father while consulting the Washington family court. After determining that Washington had continuing exclusive jurisdiction, and that ICWA did not apply because A.T. was placed with his nonoffending parent, the juvenile court dismissed the dependency action. Mother appealed, and the Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Isaiah W. (2016) 1 Cal.5th 1, 9-10
- McLearn-Gary v. Scott (2018) 25 Cal.App.5th 145, 152
- In re C.T. (2002) 100 Cal.App.4th 101, 106
- In re J.B. (2009) 178 Cal.App.4th 751, 757-758
- In re K.L. (2018) 27 Cal.App.5th 332, 336
- In re M.R. (2017) 7 Cal.App.5th 886, 904-905
- In re Jennifer A. (2002) 103 Cal.App.4th 692, 698, 700-701
- In re Alexis H. (2005) 132 Cal.App.4th 11, 15
- In re Gino C. (2014) 224 Cal.App.4th 959, 965-966
- In re C.T. (2002) 100 Cal.App.4th 101, 112-114
- In re K.L. (2018) 27 Cal.App.5th 332, 916-919