

# ICWA—Prejudice

## 1DCA

### Division 3

*In re D.P.* (Aug. 17, 2022, No. A163724 - Unpublished) “Because we conclude this error was not harmless under the rule set forth in *In re Benjamin M.* [citation], we conditionally reverse the order terminating parental rights . . . .”

### Division 5

*In re Michaela H.* (Aug. 19, 2022, No. A163620 - Unpublished) “On this record, we agree with the *In re Y.W.* line of authority holding that the Agency's failure to conduct an adequate inquiry is prejudicial.”

## 2DCA

### Division 1

- *In re S.S.* (2022) 75 Cal.App.5th 575
- *In re Darian R.* (2022) 75 Cal.App.5th 502
- *In re A.C.* (2022) 75 Cal.App.5th 1009
- *In re Adrian L.* (2022) 86 Cal.App.5th

### Division 2

*In re Dezi C.* (2022) 79 Cal.App.5th 769

### Division 3

*In re Ezequiel G.* (2022) 81 Cal.App.5th 984

### Division 4

*In re Z.A.* (Aug. 18, 2022, No. B312214 - Unpublished) “We await clarification from the California Supreme Court or the Legislature. In the meantime, we believe a fourth rule recently adopted by our colleagues in *Dezi C.* is the better approach.”

### Division 5

- *In re H.V.* (2022) 75 Cal.App.5th 433
- *In re A.C.* (2022) 86 Cal.App.5th 130

### Division 6

- *In re E.L.* (2022) 82 Cal.App.5th 597
- *In re J.K.* (2022) 83 Cal.App.5th 498

### Division 7

- *In re Y.W. et al.* (2021) 70 Cal.App.5th 542
- *In re Antonio R.* (2022) 76 Cal.App.5th 421
- *In re J.C.* (2022) 77 Cal.App.5th 70
- *In re Rylei S.* (2022) 81 Cal.App.5th 309

### Division 8

- *In re M.M.* (2022) 81 Cal.App.5th 61
- *In re J.W.* (2022) 81 Cal.App.5th 384

### 3DCA

- *In re G.A.* (2022) 81 Cal.App.5th 355
- *In re Kenneth D.* (2022) 82 Cal.App.5th 1027

### 4DCA

#### Division 1

*In re Y.M.* (2022) D080349

#### Division 2

- *In re A.C.* (2021) 65 Cal.App.5th 1060
- *In re Benjamin M.* (2021) 70 Cal.App.5th 735
- *In re Ricky R.* (2022) 82 Cal.App.5th 671

Division 3

- *In re A.R.* (2022) 77 Cal.App.5th 197
- *In re E.V.* (2022) 80 Cal.App.5th 691
- *In re G.H.* (2022) 84 Cal.App.5th 15

5DCA

- *In re K.H.* (2022) 84 Cal.App.5th 566
- *In re E.C.* (2022) 85 Cal.App.5th 123

6DCA

*In re S.K.* (Aug. 31, 2022, No. H049837 - unpublished) “Making no inquiry at all with available family members cannot be deemed harmless because if the Agency has not made inquiry with readily available family, the record does not suggest that the family has no Indian ancestry.”

## ICWA—Submission of Postjudgment Evidence

### 1DCA

### 2DCA

#### Division 1

*In re Allison B.* (2022) 79 Cal.App.5th 214  
Post appeal evidence submitted by the Agency regarding Indian Child Welfare Act (ICWA) inquiries rendered the appeal moot.

#### Division 2

*In re Dezi C.* (2022) 79 Cal.App.5th 769  
“For this purpose, the ‘record’ includes both the record of proceedings in the juvenile court and any proffer the appealing parent makes on appeal.”

#### Division 5

*In re H.V.* (2022) 75 Cal.App.5th 433, 438  
Mother does not have an affirmative duty to make a factual assertion on appeal that she cannot support with citations to the record.

#### Division 6

*In re E.L.* (2022) 82 Cal.App.5th 597

#### Division 7

*In re M.B.* (2022) 80 Cal.App.5th 617  
Postjudgment evidence submitted by the Agency did not moot Mother’s appeal claiming that the duty of further inquiry had not been complied with.

### 3DCA

- *In re G.A.* (2022) 81 Cal.App.5th 355  
Even on appeal Mother does not proffer any such reason to believe the minor has such heritage. Cites *In re A.C.* for the proposition that parent asserting failure to inquire must make an offer of proof or affirmatively claim Indian heritage on appeal.  
*In re Kenneth D.* (2022) 82 Cal.App.5th 1027 The Court of Appeal found it was “appropriate to consider the Department’s posttermination evidence that has been made part of the official appellate record . . . .”

## **4DCA**

### **Division 1**

*In re Y.M.* (2022) 82 Cal.App.5th 901

“[T]he *Dezi C.* standard disregards (1) the rule that on appeal we generally do not consider matters not contained in the trial court record . . . .”

### **Division 2**

*In re Ricky R.* (2022) 82 Cal.App.5th 671

Disapproved of *Allison B.* and denied the Agency’s request to submit postjudgment evidence

### **Division 3**

*In re E.V.* (2022) 80 Cal.App.5th 691

The Court of Appeal is not the appropriate venue for determining if the Agency’s postjudgment ICWA investigation was adequate.

## **5DCA**

*In re E.C.* (2022) 85 Cal.App.5th 123

Submission of postjudgment evidence is not proper because claims of error under ICWA do not present “exceptional circumstances” to justify the reviewing court engaging in fact finding.

## **6DCA**