In the Matter of Jane Doe I, --- P,3d ---, 2023 WL 7118394 (Idaho Ct. App., Oct. 30, 2023).

- **Holding**: The fact that the Department of Health and Welfare's efforts to reunite Indian child with her mother were, aside from coordination with mother's Tribe, similar to efforts that Department typically made in cases involving non-Indian families, did not lead to an inference that the Department's efforts did not fulfill the Indian Child Welfare Act's requirement that active efforts must be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.
- **Summary**: Mother (Doe") was arrested after her child tested positive for methamphetamine at birth, and the Department of Health and Welfare was awarded temporary custody. The Department later filed a petition to terminate the parental rights of mother and father, both of whom were enrolled members of Indian tribes. The magistrate court entered an order terminating parental rights, concluding that parents had abandoned and neglected the child, and that the Department had made active efforts to provide remedial services and rehabilitative programs directed toward reunification, as required by the Indian Child Welfare Act.

  Doe appealed. The court of appeals affirmed the termination of parental rights, and affirmed that the Department, by providing transportation to Doe, facilitating and encouraging visitation, attempting to secure Tribe-approved parenting classes through multiple referrals, and working with Doe and the Tribe to identify appropriated substance abuse treatment, had made active efforts to prevent the breakup of the Indian family.

  In so ruling, the court rejected the mother's argument that "the Department's efforts in her case were no different than the Department's efforts in a "regular" non-ICWA case and, therefore, the efforts were not active." The court "reject[ed] the notion that reasonable efforts in a non-ICWA case cannot also be characterized as active efforts, particularly as defined by federal regulation."

  The court further noted that "the Department referred Doe for services, approved tribal resources, made transportation available, and offered Doe assistance, but she did not take full advantage of the opportunities made available to her." "Doe's failure to do so does not equate to a lack of active efforts by the Department."

  Finally, the fact that Doe was incarcerated for a time complicated the Department's efforts at reunification, but while not incarcerated, she failed to complete her case plan or engage in the services offered by the Department. Applying the holding in *Idaho Dep't of Health & Welfare v. Doe (2011-23)*, 152 Idaho 797, 275 P.3d 23 (Ct. App. 2012), that a parent's incarceration significantly affects the scope of the active efforts that the Department must make to satisfy the ICWA, the court affirmed that the Department had satisfied the ICWA's active efforts requirement.
- **Relevant (2023) Deskbook Section**: 13:24