In re G.H., ___ Cal. App. 5th ___, ___ Cal. Rptr. 3d ___, 2022 WL 5240389 (4th Dist. Oct. 6, 2022)

- **Holding:** Parental termination order was conditionally reversed and remanded for compliance with California's "Indian child" inquiry requirement.
- **Summary:** This is another appeal from a parental rights termination order in which an appellant, here the father, raised for the first time on appeal a claim that the involved county social services agency did not comply with the "Indian child" inquiry requirement in Cal. Welf. & Inst. § 224.2. The father contended "that SSA did not meet this duty of inquiry as to the paternal grandmother in particular[,]" and, in fact, "[t]he record before [the court of appeal] does not demonstrate SSA attempted to contact the paternal grandmother after Father told the court (and the agency) of the 'word-of-mouth understanding in the maternal side of [his] family' that he had Cherokee heritage." The father's knowledge in this regard came from his mother with whom he was estranged. Nevertheless, "he had successfully contacted her through the social media platform, LinkedIn" (even though such contact "resulted in further estrangement"). The existence of such estrangement only sharpened the panel's sword:

  > Parents or other relatives may have a less than favorable relationship with each other, or may be less interested in or committed to federal and state policies of protecting the continued existence and integrity of tribes—even perhaps viewing potential tribal involvement consciously or unconsciously as a source of competition for custody. ... But "the right at issue in the ICWA context is as much an Indian tribe's right to 'a determination' of a child's Indian status as it is a right of any sort of favorable outcome for the litigants already in a dependency case." ... ICWA and related state law therefore """"recognize[] that the tribe has an interest in the child which is distinct from but on a parity with the interest of the parents""" and other relatives. ... That interest is compromised when the social service agency and the juvenile court fail to perform their inquiry duties.

  The panel also denied the county agency's "motion asking this court to take additional evidence regarding its outreach to Father's and Mother's extended family members, allegedly demonstrating that any error regarding its earlier ICWA inquiry duties has been rendered harmless." It reasoned that "the proposed evidence says nothing about any effort by SSA to contact the paternal grandmother by the means known to have been successful in the past. Because remand is necessary, the juvenile court should evaluate the ICWA evidence regarding Mother's extended family members 'in the first instance.'"
- **Relevant (2022) Deskbook Sections:** 13:1 n.12; 13:18 n.8