In re E.L., ___ Cal. App. ___, ___ Cal. Rptr. 3d ___, 2022 WL 3593170 (2d Dist. Aug. 23, 2022), *modified*, 2022 WL 4284485 (Sept. 16, 2022)

- **Holding:** Based on evidence submitted during the appeal, the appeal court found that the Indian Child Welfare Act did not apply.
- **Summary:** This appeal arose from the termination of parental rights of both the mother and father to four children. Several issues were raised, but only one—the mother's claim that an inadequate inquiry was made into "Indian child" status under Cal. Welf. & Inst. Code § 224.2—merits discussion. This assertion was made against the backdrop of "Mother's counsel represented that Mother had no Indian ancestry" at trial. The court of appeal affirmed.

  The panel began with the observation that

  > [w]e need not cite the profusion of cases that in myriad ways interpret Welfare and Institutions Code section 224.2, subdivision (e). To what extent are social workers required to comb the nether reaches of the land to find relatives who may shed light on a child's possible Indian heritage? We can only hope these varying interpretations will be resolved soon. But here we have the evidence that answers this question.

  The "evidence" included "an ICWA-020 form completed and signed by Mother stating she is or may be a member of the Tohono O'odham Nation, and letters from the tribe stating the children are not members of the tribe for the purposes of ICWA" that the attorney of the children's guardian had obtained from the mother's attorney. Responding to her argument that such evidence should not be accepted during the appeal, the panel stated that "[r]emand would unnecessarily delay the likelihood of adoption of the children and would achieve the same result we do here." It then quoted from *In re Allison*, 79 Cal. App. 5th 214, 294 Cal. Rptr. 3d 581 (2d Dist. 2022), summarized at https://docs.google.com/document/d/1ApQZkJDNMIGrP7MfcLFMkX9FzUIY_AoH/edit , that when "postjudgment evidence is offered to an appellate court in support of a motion to dismiss a juvenile dependency appeal, it is 'routinely consider[ed]' because, if the motion is granted, it will have 'the beneficial consequence of expedit[ing] the proceedings and promot[ing] the finality of the juvenile court's orders and judgment.'" [Cleaned up.]
- **Relevant (2022) Deskbook Section:** 13:18 n.18