

	Case Name	Holding/Topic
1.	<i>Mississippi Band of Choctaw Indians v. Holyfield</i>	<p>Though the term “domicile” in key jurisdictional provision of ICWA was not statutorily defined, Congress did not intend for state courts to define that term as a matter of state law.</p> <p>Children can be “domiciled” on the reservation within meaning of ICWA’s exclusive tribal jurisdiction provision even though they were never physically present on the reservation themselves.</p>
2.	<i>In the Matter of the Welfare of the Child of R.L.Z. and R.G.L.</i>	<p>An Indian child’s tribe can intervene at any point in a state court proceeding, and the court is required to transfer a TPR proceeding to the jurisdiction of the child’s tribe “absent good cause to the contrary.”</p>
3.	<i>In the Matter of the Welfare of the Child of S.L.J.</i>	<p>The District Court has authority to appoint a private attorney rather than a public defender to represent an indigent parent in a TPR proceeding and the County was statutorily obligated to pay reasonable compensation to that private attorney.</p>
4.	<i>In the Matter of the Welfare of the Children of R.A.J., D.W.A, and L.L.F.</i>	<p>The District Court had jurisdiction to vacate its order, transferring child-welfare proceeding to the jurisdiction of the tribal court, and the District Court did not abuse its discretion in vacating the transfer order on ground of misrepresentation.</p>
5.	<i>In the Matter of the Welfare of the Children of B.W. and L.W.</i>	<p>ICWA does not mandate, and the BIA Guidelines do not suggest, that a court must deny a petition to transfer jurisdiction even when good cause for denial exists.</p>
6.	<i>In the Matter of the Welfare of the Children of R.M.B. and R.E.R.</i>	<p>The “good cause” necessary to deny a petition filed under ICWA to transfer jurisdiction from state to tribal court may be present if proceeding is at an advanced stage. When addressing whether, under ICWA, a proceeding is at an advanced stage, the court must assess the stage of the proceeding that was pending when the petition to transfer was filed.</p>
7.	<i>In the Matter of the Welfare of the Children of M.L.A. and J.J.K.</i>	<p>A mother, who made no objection to a statement in the initial CHIPS petition that the children are not Indian children, and now asserts that she is at least 1/8th Native American and that the father also has Native American blood (which he denies) does not suffice as evidence that the children in question are “Indian children” as defined by ICWA.</p>

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8.	<i>In the Matter of the Welfare of the Children of S.W., M.M., and J.A.</i>	<p>In ICWA cases, designation as an expert is controlled in large part by the Minnesota Tribal/State Agreement on Indian Child Welfare.</p> <p>An expert is someone who is: (1) A member of the Indian child’s tribe, who is recognized by the tribal community as knowledgeable in tribal customs; (2) A lay person with substantial experience in the delivery of child services to Indians and extensive knowledge of cultural standards; and/or (3) A professional with substantial education and experience in their area of specialty and substantial knowledge of cultural standards.</p>
9.	<i>In the Matter of the Welfare of the Child of J.D.C. and J.L.W.</i>	<p>This is an example where a child is not considered to be an Indian child.</p> <p>The county’s investigation revealed only that there is some Native American heritage on a “great great great great grandmother who was only partial.” The social worker testified that the father’s Native American heritage was examined in two previous termination cases, and it was determined that neither he nor his children were eligible for enrollment in a tribe. The Father did not even provide the county the name of the supposed tribe.</p>
10.	<i>In the Matter of the Welfare of the Child of: T.T.B. and G.W.</i>	<p>A motion to transfer can be denied for good cause. One example of good cause is a motion that comes at an advanced stage in the proceeding. The Court ruled that over 7 months after being properly served was too long into the proceedings to allow a transfer.</p>
11.	<i>In the Matter of the Welfare of the Children of: M.A.C., T.M.M., and S.C.</i>	<p>Because the Appellant failed to provide any information, other than vague allegations of Indian heritage, the child could not be considered an Indian child under ICWA.</p>
12.	<i>In the Matter of the Welfare of the Child of T.L.C.</i>	<p>Under ICWA, for foster care placement, the court must determine, by clear-and-convincing evidence, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child. For TPR cases, ICWA requires that the determination be supported by evidence beyond a reasonable doubt.</p> <p>In a case regarding a transfer of legal and physical custody the district court properly applied the clear-and-convincing burden of proof.</p>

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13.	<i>In the Matter of the Welfare of the Children of R.L.C. and D.B.B.</i>	Under the BIA Guidelines for state courts, clear and convincing evidence is evidence that shows the existence of particular conditions in the home that are likely to result in serious emotional or physical damage to the particular child who is the subject of the proceeding. The evidence must show the causal relationship between the conditions that exist and the damage that is likely to result.
14.	<i>In the Matter of the Welfare of the Children of S.S., L.B., D.D. and T.W.</i>	Foster placement of an Indian child requires the county to make active, culturally appropriate efforts to prevent placement of the child and to return the child to the family as soon as possible.
15.	<i>In the Matter of the Welfare of the Children of J.L.W. and P.M.H.</i>	<p>In order to terminate parental rights regarding a Native American child, the petitioner must demonstrate that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful. These active efforts must be proved beyond a reasonable doubt.</p> <p>If the record supports a decision that efforts to reunify the family would have been futile, the court cannot say that any failure to satisfy these technical requirements is fatal to the decision to terminate parental rights.</p>
16.	<i>In the Matter of the Welfare of the Children of J.B. and G.A.-C., and T.F.</i>	BIA guidelines state that if a child becomes a member of a tribe during the proceeding, “that tribe shall be designated as the Indian child’s tribe with respect to all subsequent actions related to the proceeding.”
17.	<i>In the Matter of the Welfare of the Children of C.V.</i>	The district court did not abuse its discretion by determining that good cause to deny transfer existed due to the advanced stage of the proceedings. The tribe waited over a year from the start of the proceedings to request a transfer. Although the tribal court was not ready to accept transfer until that time, the policy reasons behind disfavoring transfers requested late in the proceedings are as much to protect the wellbeing of the children as to ensure prompt action by a tribe.

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18.	<i>In the Matter of the Children of M.T.</i>	While the tribe's recommendations are important factors to consider in determining custody of children, to require complete deference would render a trial or the exercise of any trial court discretion meaningless.
19.	<i>In the Matter of the Child of E.M.D.</i>	When considering “ active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family,” the court must consider the efforts made throughout the course of the proceedings.
20.	<i>In the Matter of the Welfare of A.M.F.-G.</i>	ICWA applies only in child custody proceedings which include foster care placements, termination of parental rights actions, preadoptive placements, and adoptive placements. The statute expressly excludes placements and proceedings “based upon an act, which if committed by an adult, would be deemed a crime.” Thus, ICWA does not apply to out-of-home placements that arise from delinquency proceedings.
21.	<i>Gerber v. Eastman</i>	ICWA does not apply where a non-Indian father seeks permanent sole legal and physical custody of his biological child after the state district court has granted permanent sole legal and physical custody to the child's Indian maternal grandmother. The placement here would be to return the child to the custody of her parent and not to place her temporarily into a “foster home or institution or the home of a guardian or conservator” as defined in ICWA.
22.	<i>In the Matter of the Welfare of the Child of Roberta Lorraine Wilson</i>	The BIA Guidelines addressing active efforts assume significant judicial deference to determinations of the relevant social-service agencies regarding whether “active efforts” have been made. Here, adoptive placement preferences are not applicable because at the time of the child's initial placement, and adoptive placement was not possible.
23.	<i>In the Matter of the Welfare of S.N.R.</i>	A tribal determination that a child is a member of or is eligible for membership in the tribe is conclusive evidence that the child is an “Indian child” within the meaning of ICWA.

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24.	<i>In the Matter of the Welfare of D.M., E.M., and A.M.</i>	When ICWA applies, a TPR cannot be ordered in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses , that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical harm. This indicates the testimonial evidence must support a TPR but does not require that the testimony be given at the same time as the other evidence in the case.
25.	<i>In the Matter of the Welfare of M.G., S.G., and A.C.</i>	The district court did not abuse its discretion by refusing to order DCFS to petition the court to terminate parental rights. As there was no termination issue, ICWA did not apply.
26.	<i>In the Matter of the Welfare of: B.M.J., L.M.J., and R.L.J.</i>	HCSS was required to call a qualified expert witness as defined by ICWA in order to satisfy the beyond a reasonable doubt evidentiary standard applied to a termination of parental rights proceeding.
27.	<i>In the Matter of the Paternity of J.A.V., and Hisgun v. Velasco</i>	This paternity action is not one that can result in the termination of the parent-child relationship. There is not a “child custody proceeding” as defined by ICWA and therefore ICWA does not apply.
28.	<i>In the Matter of the Welfare of: J.B., B.B. and B.B.</i>	It was an abuse of discretion for the trial court to declare it was without power to provide a disposition other than return of the children to the mother merely because the parties offered it a limited array of disposition options. The Band should not be able to dictate and limit the array of permanency dispositions available to the court that the legislature has set forth in the statute.
29.	<i>In the Matter of the Custody of S.E.G., A.L.W. and V.M.G.</i>	In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child’s extended family; (2) other members of the Indian child’s tribe; or (3) other Indian families. Good cause may include a child’s need for stability, but this is not equivalent to a need to be adopted.
30.	<i>In the Matter of the Welfare of C.S.C.</i>	Foster parents that have physical custody and do, in fact, provide care and support for the child have a right to intervene.

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31.	<i>In re the Custody of A.K.H.</i>	ICWA grants an Indian tribe the right to intervene in custody disputes between parents and grandmother of a child where all parties were enrolled members of Indian tribes. Placement of the child with the grandmother would be placement in the home of guardian or conservator within the meaning of ICWA. Intrafamily disputes are not excluded from ICWA.
32.	<i>Long v. Geldert</i>	Foster care placements can include with family members as ICWA gives preference to extended family. An Indian child's tribe may petition to invalidate a foster care placement upon a showing the prior proceeding violated ICWA. If a court has reason to believe an involved child is an Indian child, the court shall seek verification of the child's status.
33.	<i>In re the Adoption of M.T.S.</i>	Fact that separation from a foster family would be initially painful to an Indian child was not good cause on its own to defeat the presumption created by ICWA that an Indian child's interests are best served by placement with an extended family member.
34.	<i>In the Matter of the Welfare of J.A.S., F.A.B., and C.J.S., Jr.</i>	The testimony of a qualified expert is not needed at an emergency hearing , but is needed at subsequent hearings if an order is to validly direct foster care placement within the meaning of ICWA.
35.	<i>In the Matter of the Welfare of V.R., K.R., M.E.R., O.R., Jr., and D.C.R.</i>	Substantial compliance with notice requirements is enough if it is sufficient to put the tribe on notice of the pending proceeding and its right to intervene.
36.	<i>In the Matter of the Welfare of M.E.B.</i>	ICWA only requires the testimony of one expert witness in termination proceedings.
37.	<i>In the Matter of the Welfare of M.S.S.</i>	Trial court is required to consider whether a witness qualifies as an expert under ICWA. A reasonable doubt standard is used to determine whether active efforts to provide remedial services and rehabilitative programs to prevent the breakup of an Indian family have been made. The county had to at least consider the parent's extended family and tribe.

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38.	<i>In the Matter of the Welfare of B.W., a/k/a B.G.</i>	Where the Minnesota Department of Human Social Services manual provides more stringent standards in defining an expert in Indian child welfare matters than ICWA, the state law standard should be applied in the absence of explicit trial court findings showing good cause why that standard should not apply.
39.	<i>In the Matter of the Welfare of C.C.T.L., Jr.</i>	An Indian tribe has exclusive jurisdiction over an Indian child who is a ward of Tribal Court. Tribal court requested jurisdiction and neither parent objected. ICWA does not require that a parent consent to the transfer . A transfer is required when a parent has made no objection.
40.	<i>In the Matter of the Welfare of R.I., M.I. Jr., and K.H.</i>	Although appellant verbally objected to the transfer to tribal court, she impliedly consented to the transfer by voluntarily bringing the children to the reservation.
41.	<i>In the Matter of the Welfare of W.R. and A.R.</i>	ICWA does not require that children be in the custody of the parent whose rights are to be terminated before there can be a finding that termination is appropriate.
42.	<i>In the Matter of the Welfare of T.J.J. and G.L.J.</i>	ICWA permits termination of parental rights only upon showing by evidence beyond a reasonable doubt , including testimony of qualified expert witnesses , that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.
43.	<i>In the Matter of the Welfare of R.M.M. III</i>	Examples of actions by parent that satisfy the reasonable doubt evidentiary standard.