



September 6, 2021

Vol. 9

# CTFC WEEKLY HIGHLIGHTS

*Latest News From California Tribal Families Coalition*



## Update on the Claudette White Tribal Court Education Equity Act (AB 1055)

CTFC is pleased to share that the Claudette White Tribal Court Education Equity Act (Assembly Bill 1055), authored by Assemblymember James Ramos, has made it through Committee and is on its way to the Governor's desk for signature.

The bill was renamed in July "The Claudette White Tribal Court Education Equity Act" in honor of Judge Claudette White. Judge White, a Quechan tribal member and tribal court judge, was a force for good in Indian Country. Judge White unfortunately passed earlier this year.

The Claudette White Tribal Court Education Equity Act builds on prior work to ensure that tribal foster youth receive the full benefit of California Education Code provisions aimed at increasing educational success of foster youth.

## CTFC Summer 2022 Law Clerk Applications Now being Accepted!

CTFC provides an opportunity for summer law clerks with demonstrated interest in Indian law and/or social welfare law and policy. The 2022 Summer Clerkships will be primarily remote, but may include an opportunity to meet in-person in Northern California with the CTFC team.

The CTFC team focuses on high impact work, community driven needs identification with a focus on high needs stakeholders. We are looking for engaged and driven individuals that thrive in a collaborative environment, seek mentorship and learning and enjoy creative problem-solving. Native law students are strongly encouraged to apply.

Applications will be accepted until November 5, 2021.

For more information, [visit our website](#).



**APPLICATION OPEN!**

2022 Summer Law Clerk

Details on our website. Send the following materials to [clerkapp@caltribalfamilies.org](mailto:clerkapp@caltribalfamilies.org) by Nov. 5, 2021.

Cover letter • Resume • Writing sample • 2 References



CALIFORNIA TRIBAL FAMILIES COALITION

## ***Brackeen v. Haaland Update***

Last week Petitions for Certiorari were filed in the United State Supreme Court on the *Brackeen* case, a constitutional challenge to the Indian Child Welfare Act, and an attack on Indian Country generally. The Petitions are requests that the Supreme Court hear an appeal of the decision that was issued in the *Brackeen* case by the Court of Appeals for the 5<sup>th</sup> Circuit. The State of Texas, individuals plaintiffs, four tribes (including the Morongo Band of Mission Indians) and the United States all filed individual petitions with the Supreme Court requesting review. It will not be clear for perhaps months, whether the Supreme Court will hear the case. If the Supreme Court does hear the case CTFC will be reaching out to California Tribes to ask that they join in a “friend of the court” amicus brief to support ICWA and show unity as tribal sovereignty is again attack. Check back here for updates.

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### **California ICWA Case Corner**

This is the first iteration of CTFC’s newsletter feature, California ICWA Case Corner. Each week, CTFC will publish updates on new ICWA-related caselaw in the State of California. Having your finger on the pulse of current issues in California state courts as they relate to tribal children and families is important. We will scan for relevant cases and provide short synopses each week.

#### ***In re A.C.*, 65 Cal. App. 5<sup>th</sup> 1060**

[Opinion](#) filed 2021.06.25| San Bernardino County

Summary: This case is an appeal by a father from termination of parental rights. No inquiry was made into father’s Indian status, but the trial court held that ICWA did not apply and ultimately terminated his parental rights. Because the father never claimed in his opening brief, reply brief, or at oral argument that he had Indian ancestry and because he introduced no new Indian ancestry evidence on appeal, the appellate court held that the failure to inquire was not prejudicial and the trial court’s decision was affirmed.

Why it matters: Social service agencies have an “affirmative and continuing duty to inquire whether a child” is or may be an Indian child. *Welf. & Inst. Code* § 224.2 *subd. (a)*. Here, the County and the court acknowledged their failure to properly inquire about the child’s Indian status by failing to ask the father about his ancestry or connection to a tribe. Still, the appellate court held there was no prejudicial effect of not inquiring because father did not present any new information of Indian ancestry on appeal. It is somewhat unique that the court allowed the father the opportunity to introduce new evidence on appeal that was not on the trial court record. The court stated, “[w]e acknowledge the “general” rule that we cannot “receive and consider postjudgment [sic] evidence that was never before the juvenile court...” However, “in the rare and compelling case an exception may be warranted.”” This case is important to watch because it shifts the burden of proof to the parent to introduce new assertions or evidence that show a trial court’s failure to properly inquire was actually prejudicial to the outcome of the case. This approach is a departure from past cases where a mere showing of failure to properly inquire may have been enough for successful appeal.

The case highlighted today *In re A.C.* is from June 2021 and is highlighted because of its notable impact, at least in the Court of Appeals Fourth District, requiring parents to bear the burden of introducing new evidence on appeal in improper inquiry cases. Moving forward, highlighted cases will consist of new cases available the week of the newsletter publication. Since we started tracking cases on 09/01/2021, the following counties have issued published or unpublished ICWA related cases: San Bernardino (1), San Diego (1). We will continue tracking this data.

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## **UPCOMING DATES & DEADLINES**

- **September 16** - CTFC Tribal Strategy Session for upcoming CDSS Tribal Consultation Summit - click [HERE](#) for more information
- **September 20** - Nominations for the Not Invisible Joint Commission (see our Weekly Highlight from August 9 for more information)
- **September 22** - Annual CDSS Tribal Consultation Summit
- **September 30** - *A Critical Look at the Indian Child Welfare Act: Revisiting its History and Recognizing its Relevance to Current Practice* (virtual conference)

Read past Weekly Highlights.

