



**IN THE
TENTH COURT OF APPEALS**

No. 10-12-00286-CV

IN THE INTEREST OF P.J.B., A.B., AND I.B., CHILDREN

**From the County Court at Law No. 2
Johnson County, Texas
Trial Court No. D201100008**

ABATEMENT ORDER

Chrystal B. appeals a judgment terminating the parent-child relationship between her and her three children, P.J.B., A.B., and I.B. The issue of whether the Indian Child Welfare Act of 1978's protections should have been applied to the termination case was raised during the proceedings and is an issue before this Court in this appeal. 25 U.S.C.A. §§ 1901-1963 (2001). The Department requests that this appeal be abated for a determination of whether or not the Indian Child Welfare Act applies. Because the Department and the trial court had reason to believe that the children were possibly Indian children, we abate this cause and remand these proceedings to the trial court.

The trial court will ensure that proper notice that complies with the statutory notice requisites shall be provided as required by statute. *See* 25 C.F.R. § 23.11 (2008).

The trial court shall then conduct a hearing to determine whether P.J.B., A.B., and I.B. are Indian children under the ICWA. *See* TEX. R. APP. P. 44.4 (appellate court shall not reverse or affirm judgment if trial court can correct erroneous failure to act, and appellate court authorized to direct trial court to correct erroneous failure to act and to then proceed as if erroneous failure to act had not occurred).

The parties are ordered to provide this Court a status update on this matter every thirty (30) days during this abatement. Further, we order that the reporter's and clerk's records be supplemented in this Court demonstrating compliance with this order, including the transcript of the abatement hearing and any documentation provided to the trial court in aid of its determination. After we receive the supplemental records, this appeal will be reinstated.

PER CURIAM

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Abated

Order delivered and filed November 15, 2012