

# Order

Michigan Supreme Court  
Lansing, Michigan

June 15, 2012

Robert P. Young, Jr.,  
Chief Justice

143894

Michael F. Cavanagh  
Marilyn Kelly  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

In re BUDD, BUDD-DONAHUE,  
DONAHUE, Minors.

SC: 143894  
COA: 301995  
Wayne CC Family Division:  
08-483774

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By order of November 10, 2011, the application for leave to appeal the September 29, 2011 judgment of the Court of Appeals was held in abeyance pending the decision in *In re Morris, Minor* (Docket No. 142759). On order of the Court, the case having been decided on May 4, 2012, 491 Mich \_\_\_ (2012), the application is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE that part of the judgment of the Court of Appeals applying the conditional-affirmance remedy, CONDITIONALLY REVERSE the Wayne Circuit Court, Family Division's termination of the respondent's parental rights, and REMAND this case to the circuit court for resolution of the notice requirements of the Indian Child Welfare Act (ICWA), 25 USC 1901 *et seq.* On remand, the circuit court shall first ensure that notice is properly made to the appropriate entities. If the circuit court conclusively determines that ICWA does not apply to the child protective proceeding—because the children are not Indian children or because the properly noticed tribe does not timely respond—the circuit court's order terminating the respondent's parental rights shall be reinstated. If, however, the circuit court concludes that ICWA does apply to the child protective proceeding, the circuit court's order terminating the respondent's parental rights must be vacated and all proceedings must begin anew in accord with the procedural and substantive requirements of ICWA.

We do not retain jurisdiction.



s0612

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 15, 2012

*Corbin R. Davis*

Clerk