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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

L.Q.,

Petitioner,

v.

THE SUPERIOR COURT OF COUNTY  
OF MARIN,

Respondent,

COUNTY OF MARIN DEPARTMENT  
OF HEALTH AND HUMAN SERVICES  
et al.,

Real Parties in Interest.

A134851

(Marin County Super. Ct. Nos.  
JV-25073A, JV-25074A &  
JV-25075A)

This case involves combined proceedings, but distinct issues, as to three minor girls, N.Q. (No. JV-25073A), S.Q. (No. JV-25074A), and V.Q. (No. JV-25075A). At the outset, when the minors were removed from the custody of J.Q. (Mother), the petitioner L.Q. (Father) was a noncustodial parent.

At the conclusion of a contested 12-month permanency hearing, on February 27, 2012, the juvenile court ordered N.Q. and V.Q. returned to Mother's custody by March 30, 2012, under a family maintenance plan. It further terminated Father's reunification services as to these minors, as it did "not believe . . . further services [were] warranted," and directed the minors' counsel to prepare a protective order directing Father not to remove them from the area comprised of Marin, San Francisco, Sonoma,

Contra Costa, and Alameda counties during any subsequent visitation he might have with them.

The court made separate orders as to S.Q., in which it terminated both parents' reunification services and set her proceeding (No. JV-25074A) for a hearing under Welfare and Institutions Code section 366.26.<sup>1</sup>

Father's 366.26 petition followed. (§ 366.26, subd. (I).) His petition raises issues not only as to the findings and orders made with respect to S.Q. in case No. JV-25074A, but also those made with respect to N.Q. and V.Q. in case Nos. JV-25073A and JV-25075A.

As a general rule, the extraordinary writ procedure provided under section 366.26, subdivision (I), applies to the review of "any order, regardless of its nature, made at the hearing at which a setting order [for a hearing under section 366.26] is entered." (*In re Anthony B.* (1999) 72 Cal.App.4th 1017, 1024 (*Anthony B.*); see also *In re Tabitha W.* (2006) 143 Cal.App.4th 811, 817 [noting no decisions have disagreed with this holding in *Anthony B.*].)

These combined proceedings, however, are distinguishable from those decisions that have followed the general rule of *Anthony B.* because, here, the juvenile court set a section 366.26 hearing *only* for S.Q. in the three combined proceedings. The general rule is intended to support the state's "strong" interest in expedition and finality, and the minor's "interest in securing a stable, 'normal' home." (*Anthony B.*, *supra*, 72 Cal.App.4th at pp. 1022–1023.) These interests are furthered when the general rule is applied to the proceeding of a minor whose matter has been set for a section 366.26 hearing, but it does not follow that the general rule should also apply to the separate proceedings of other siblings, regarding other issues, simply because they were heard at the same hearing.<sup>2</sup> In this instance, the court made an entirely different disposition as to

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<sup>1</sup> Further references are to the Welfare and Institutions Code.

<sup>2</sup> At the section 366.26 hearing, the court selects a permanent plan of adoption, legal guardianship, or foster care, and at the same time implements the plan, often by terminating parental rights. (§ 366.26.) The setting of that hearing as to S.Q. did not affect Father's relationship with N.Q. and V.Q.

N.Q. and V.Q. than it did for S.Q. The procedural posture of their proceedings was no longer the same and no longer implicated the same interests.

We, thus, conclude the orders to which Father objects, to the extent they concern N.Q. and V.Q., as to whom the juvenile court did not set a hearing under section 366.26, are orders that are appealable under section 395, and are not orders subject exclusively to review under the writ procedure provided under section 366.26, subdivision (*l*). In making this conclusion, we note that even if the time has passed for a timely appeal from the orders of February 27, 2012 affecting N.Q. and V.Q., the court below has retained jurisdiction over these minors, and Father is free to revisit with that court continuing concerns he may have regarding visitation or other matters involving N.Q. and V.Q.

Further, we have granted judicial notice of the juvenile court's order, entered April, 30, 2012, subsequent to Father's petition. This order vacated the section 366.26 hearing previously set as to S.Q. It appears S.Q. was returned to Mother's custody by this same order which also discusses visitation. The remaining issues in Father's petition—concerning S.Q.—have effectively been rendered moot by the vacation of the order setting the section 366.26 hearing.

The petition is dismissed as moot to the extent it raises issues relating to the proceeding concerning S.Q. (No. JV-25074A). As to the issues relating to N.Q. and V.Q. (Nos. JV-25073A and JV-25075A), the petition is dismissed for failure to present issues properly subject to review by extraordinary writ under section 366.26, subdivision (*l*).

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Marchiano, P.J.

We concur:

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Margulies, J.

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Dondero, J.