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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

J.O.,
Petitioner,
v.
THE SUPERIOR COURT OF
HUMBOLDT COUNTY,
Respondent;
HUMBOLDT COUNTY PUBLIC
GUARDIAN,
Real Party in Interest.

A141418

(Humboldt County
Superior Court No. CV140139)

BY THE COURT:¹

A temporary conservator under the Lanterman-Petris-Short Act (“LPS”) was ordered after finding that petitioner was gravely disabled. That order was entered by a judge hearing probate matters. Challenging that finding, petitioner filed a petition for writ of habeas corpus in the trial court. That habeas was heard by a different judge, one who was assigned criminal cases. The judge assigned criminal cases denied the petition because the LPS matter was still being heard by the probate judge. Petitioner filed a petition for writ of mandate with this court, challenging the denial of the habeas corpus petition.

¹ Before Kline, P.J., Haerle, J., and Richman, J.

In denying the petition for writ of habeas corpus, the judge assigned criminal cases relied upon *In re Gandolfo* (1984) 36 Cal.3d 889. That case dealt with an inter-jurisdictional situation, where a temporary conservator was appointed in Orange County and a habeas corpus was granted in San Joaquin County where the petitioner was confined. The supreme court found that the proper jurisdiction was with the court that appointed the conservator, not the court of confinement. (36 Cal.3d at 896.)

Given that there is one superior court for Humboldt County, *Gandolfo* is inapplicable. While it may have been preferable for the petition for writ of habeas corpus to be heard by the judge assigned to probate matters, that is not a basis to deny the petition. Indeed, the petition was filed in the correct superior court. Should the court wish the matter to be heard by a particular judge, the petition should not have been denied; rather, it should have been transferred.

Let a peremptory writ of mandate issue commanding respondent to withdraw its order denying the petition for writ of habeas corpus. The superior court is hereby instructed to consider the petition anew.