

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re D.H., a Minor,
on Habeas Corpus.

A145327

(Solano County
Super. Ct. No. J40106)
ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]

BY THE COURT:

The opinion filed June 16, 2015, is modified to (1) delete the presiding justice's signature on page 2 and (2) add Dondero, J. as a panel member in footnote 1.

The modification does not change the appellate judgment. (Cal. Rules of Court, rule 8.264(c)(2).)

Dated: _____

_____ P.J.

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(Solano County
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BY THE COURT:¹

Petitioner D.H. seeks a writ of habeas corpus directing the County of Solano Superior Court to accept his notice of appeal as timely filed.

Petitioner contends that trial counsel assured him that a notice of appeal would be timely filed on his behalf. In her declaration accompanying the petition, trial counsel states she neglected to timely file the notice.

Based on trial counsel's declaration, the Attorney General concedes that petitioner is entitled to the relief he seeks, expressly waives issuance of an order to show cause and oral argument, and stipulates to the immediate issuance of the remittitur.

Therefore, the petition for writ of habeas corpus is granted to the extent that the notice of appeal dated June 2, 2015, and marked as received by Solano County Superior Court on June 5, 2015, in *In re D.H.*, Solano County case number J40106, is deemed constructively, timely filed. (See *In re Benoit* (1973) 10 Cal.3d 72, 78 [habeas corpus lies to correct the erroneous denial of a right to an effective appeal and to effect preparation of the record so as to perfect the appeal].)

¹ Before Humes, P.J., and Margulies, J.

The County of Solano Superior Court appeal clerk is directed to file D.H.'s notice of appeal, received by the superior court on June 5, 2015, a copy of which is enclosed with the superior court's copy of this order, and thereafter to perfect the appeal pursuant to California Rules of Court, rule 8.405(b).

This opinion is final for all purposes immediately upon filing, and the Clerk of this Court shall forthwith issue the remittitur. (See *Ng. v. Superior Court* (1992) 4 Cal.4th 29, 34, fn. 1; Cal. Rules of Court, rule 8.272(c)(1).)

Dated: _____

_____ P.J.