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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re K.C., a Person Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Petitioner,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

T.M., et al.,

Real Parties in Interest.

E058000

(Super.Ct.No. RIJ101771)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Jacqueline C.

Jackson, Judge. Petition granted.

Pamela Walls, County Counsel, and William A. Jarvis, Deputy County Counsel,
for Petitioner.

No appearance by Respondent.

No appearance by Real Parties in Interest.

In this matter we have reviewed the petition and offered real parties in interest the opportunity to respond; no response has been filed by any real party. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

At the stage governed by Welfare and Institutions Code section 366.26, if a child is adoptable, the court must terminate the parents' rights except in sharply limited situations. The only one relevant here applies when the "parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (Welf. & Inst. Code, § 366.26, subd. (c)(1)(B)(i).) The parent bears the burden of showing that the exception applies. (*In re Mary G.* (2007) 151 Cal.App.4th 184, 207.) More is required than affectionate or pleasant conduct and visits; there must be a "significant, positive, emotional attachment." (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.) The parent must show that the child would suffer substantial harm from the termination of the relationship. (See *In re C.F.* (2011) 193 Cal.App.4th 549, 555.)

It is obvious that this exception will generally apply in the case of older children and those for whom the parent has been a primary caretaker for a significant length of time, neither of which circumstances applies here. (Cf. *In re C.B.* (2010) 190 Cal.App.4th 102; *In re S.B.* (2008) 164 Cal.App.4th 289.) In this case, therefore, the

preference for adoption prevails and it was error for the court to refuse to terminate the parents' rights so that the minor could be positioned for adoption. We therefore grant the petition.

Let a peremptory writ of mandate issue, directing the superior court of Riverside County to vacate its order continuing the Welfare and Institutions Code section 366.26 hearing for further proceedings without terminating the parents' rights, and to enter a new order terminating parental rights and approving adoption as the preferred plan for the minor.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties. No response having been received by real parties, we deem it appropriate that this order shall be final 10 days from the date of entry.

The previously ordered stay is lifted.

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RICHLI
J.

We concur:

RAMIREZ
P. J.

KING
J.