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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Petitioner,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

BRANDON SKAGGS,

Real Party in Interest.

E060905

(Super.Ct.Nos. FVI1401006 &
J254119)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Eric M. Nakata and
Larry W. Allen, Judges. Granted.

Michael A. Ramos, District Attorney, and Brent J. Schultze, Deputy District
Attorney, for Petitioner.

No appearance for Respondent.

Friedman, Gebbie, Cazares, & Gilleece, and Robert Friedman for Real Party in Interest.

DISCUSSION

In this matter we have reviewed the petition and the opposition filed by real party in interest. 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.)

In our view the case is governed by *Solano v. Superior Court (People)* (2009) 169 Cal.App.4th 1361, and we see no reason to disagree with that decision. The procedural differences are immaterial and there is nothing in the statutes that supports real party in interest's argument that by choosing to "adult-file" in the first instance, the People must give up their right under Penal Code section 739 to obtain, in essence, a superior court review of the magistrate's refusal to issue a holding order as to a specific charge. Nor do we find the argument that the magistrate had no power to "certify" the case to adult court relevant; the magistrate's only duty under Penal Code section 872 is to endorse its findings of probable cause on the complaint. According to Welfare and Institutions Code section 707, subdivision (d)(4), the matter then proceeds "according to the laws applicable to a criminal case," which is what the People did here.

We also decline to find that the People waived their right to file an information in the superior court by failing to object at the time of the order of remand, or by attempting

to protect the public and keep real party in interest in custody by filing a juvenile petition while this petition was contemplated.

DISPOSITION

Accordingly, the petition for writ of mandate is granted. Let a peremptory writ of mandate issue, directing the Superior Court of San Bernardino County to arraign real party on the information filed by petitioner. Proceedings in the juvenile court shall remain stayed, pursuant to the order of this court dated April 15, 2014, pending resolution of the criminal proceedings.

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.

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RAMIREZ
P. J.

We concur:

KING
J.

CODRINGTON
J.