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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

L.G.,

Petitioner,

v.

THE SUPERIOR COURT OF FRESNO  
COUNTY,

Respondent;

FRESNO COUNTY DEPARTMENT OF  
SOCIAL SERVICES,

Real Party in Interest.

F067592

(Super. Ct. No. 12CEJ300199-1)

**OPINION**

**THE COURT\***

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Timothy A. Kams, Judge.

Katherine Fogarty, for Petitioner.

No appearance for Respondent.

Kevin Briggs, County Counsel, William G. Smith, Deputy County Counsel, for Real Party in Interest.

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\* Before Levy, Acting P.J., Cornell, J. and Kane, J.

L.G. (father) seeks extraordinary writ review from the juvenile court's order setting a Welfare and Institutions Code section 366.26 hearing<sup>1</sup> as to his 14-month-old son Joshua. Timothy contends the juvenile court erred in finding he was provided proper notice of the jurisdictional and dispositional hearings. We deny the petition.

### **PROCEDURAL AND FACTUAL SUMMARY**

In August 2012, the Fresno County Department of Social Services (department) took then one-month-old Joshua into protective custody after the police located him with his mother, D.R. (mother), living on the streets. Mother stated she was using methamphetamine and did not have any formula or money. Father, who was wanted on felony warrants, fled when the officers approached him and mother.

The department filed a dependency petition on Joshua's behalf alleging mother and father failed to protect him. In its report for the detention hearing, the department stated mother and father were homeless and the department was unable to locate them to notify them of the hearing.

Later in August 2012, the juvenile court convened the detention hearing. Neither mother nor father appeared. The juvenile court ordered Joshua detained pursuant to the petition and set a jurisdictional/dispositional hearing for September 2012. The department placed Joshua with his maternal grandmother.

The department initiated a parent search which yielded nine possible addresses for father. The department sent a form letter addressed to father to each of the nine addresses, as well as to his last known address. The form letter explained the department was searching for the father of a male child and provided Joshua's birth date. The letter also explained the child was the subject of juvenile court proceedings which could result in termination of parental rights and asked the recipient to contact the department. The department did not receive any responses to the letters.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

The department filed its declarations of due diligence with the juvenile court and recommended the juvenile court deny father and mother reunification services because their whereabouts were unknown.

In September 2012, the juvenile court convened a combined hearing on jurisdiction and disposition. Neither father nor mother appeared. The juvenile court found they were provided proper notice and their whereabouts were unknown. The court adjudged Joshua a dependent of the court, denied father and mother reunification services, and set a six-month review hearing for March 2013.

On February 21, 2013, the department located father in county jail and notified him of the six-month review hearing.

On March 14, 2013, at the six-month review hearing, father and mother made their first appearances and the juvenile court appointed them counsel. County counsel advised the court that father received notice of the hearing but notice was defective because it indicated the department did not recommend any change in orders when the department was recommending the court set a section 366.26 hearing. Father's attorney advised the court that father received notice of the hearing in jail and requested a continuance to review the reports.

The juvenile court continued the six-month review hearing and set it as a contested hearing, which was conducted in June 2013. Meanwhile, father's attorney filed a motion asking the juvenile court to find the department's notice to father of the jurisdictional hearing was defective and to conduct a new jurisdictional hearing.

On June 27, 2013, the juvenile court conducted a contested six-month review hearing. The court found father was provided proper notice and any defect was harmless. The court set the section 366.26 hearing for October 2013. This petition ensued.

## DISCUSSION

Father contends the department's search efforts did not comport with due process because the letters it sent did not include the information required by section 291, subdivision (d).

Due process requires notice reasonably calculated under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. (*In re DeJohn B.* (2000) 84 Cal.App.4th 100, 106.) A parent has a statutory right to notice of the jurisdictional and dispositional hearings. (§ 291, subd. (a).) The child welfare agency must act with diligence to locate a missing parent. Reasonable diligence denotes a thorough, systematic investigation and an inquiry conducted in good faith. (*In re Justice P.* (2004) 123 Cal.App.4th 181, 188.) There is no due process violation when there has been a good faith effort to provide notice to a parent who is transient and whose whereabouts are unknown for the majority of the proceedings. (*Ibid.*) However, if the party conducting the search ignores the most likely means of finding the missing parent, the service is invalid even if the affidavit of diligence is sufficient. (*In re Arlyne A.* (2000) 85 Cal.App.4th 591, 598-599.)

Section 291 sets forth the means by which a parent must be provided notice of the jurisdictional and dispositional hearings. Subdivision (d) of section 291 requires that notice include the parent's name and address, the nature of the hearing, each section and subdivision under which the proceeding has been initiated, the date, time and place of the hearing, the name of the child on whose behalf the petition was brought, and a statement concerning entitlement to counsel and the consequences of failing to appear. The notice must also include a copy of the petition.

Father argues the letters sent by the department do not contain the information required by section 291, subdivision (d). Therefore, his due process right to notice was violated. We find no due process violation.

First, the letters were intended to *find* father not provide him notice. Therefore, they did not have to contain the information required by section 291, subdivision (d). In fact, the department could *not* have included such information in the search letters because the information is confidential and protected from anyone except, in this case, the parent.

Further, the record reflects the department conducted a thorough search for father, including sending a letter to his last known address. Thus, the department utilized the most likely means of finding him.

Finally, even assuming notice was defective in this case, reversal is not warranted because father does not explain how he was prejudiced. “Errors in notice do not automatically require reversal. [Citation.] We review such errors to determine whether they are harmless beyond a reasonable doubt. [Citations.]” (*In re Daniel S.* (2004) 115 Cal.App.4th 903, 912-913.) Father does not cite this court to any evidence which, had it been presented, would have compelled the juvenile court to rule differently.

We find no error.

#### **DISPOSITION**

The petition for extraordinary writ is denied. This opinion is final forthwith as to this court.