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

JUSTIN K.,

Petitioner,

v.

THE SUPERIOR COURT OF KINGS  
COUNTY,

Respondent;

KINGS COUNTY HUMAN SERVICES  
AGENCY,

Real Party in Interest.

F073681

(Super. Ct. Nos. 15JD0317,  
15JD0319)

**OPINION**

**THE COURT**\*

ORIGINAL PROCEEDING; petition for extraordinary writ review. Jennifer Lee Giuliani, Judge.

Justin K., in pro. per., for Petitioner.

No appearance for Respondent.

Colleen Carlson, County Counsel, and Rise A. Donlon, Deputy County Counsel, for Real Party in Interest.

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\* Before Levy, Acting P.J., Detjen, J. and Smith, J.

Petitioner Justin K. seeks an extraordinary writ (Cal. Rules of Court, rule 8.452<sup>1</sup>) from the juvenile court's order setting a Welfare and Institutions Code section 366.26<sup>2</sup> hearing as to his now five-year-old daughter Madeline. We conclude his petition fails to comport with the procedural requirements of rule 8.452. Accordingly, we dismiss the petition as facially inadequate.

### **STATEMENT OF THE CASE AND FACTS**

In August 2015, then four-year-old Madeline was taken into protective custody along with her half sister Emma by the Kings County Human Services Agency (agency) after she was found living in a dirty home with her maternal grandfather who was under the influence of methamphetamine. Madeline's mother, Tiffany, tested positive for methamphetamine and marijuana during a field sobriety test. The agency placed Madeline and Emma in separate foster homes.

Tiffany identified Justin as Madeline's father. She said he was not on Madeline's birth certificate and he did not claim Madeline as his child. She said he lived in Oklahoma and had not seen Madeline since she was six months old. Justin denied being Madeline's father, insisting that Tiffany was trying to cause him trouble.

The juvenile court exercised its dependency jurisdiction over the children, removed them from parental custody and ordered reunification services for Tiffany and Aaron, Emma's father. The court found that Justin was Madeline's alleged father, rendering him ineligible for reunification services.

In March 2016, the agency filed its report for the six-month review hearing. The agency advised the juvenile court that Tiffany and Aaron had not complied with their court-ordered services and recommended the juvenile court terminate reunification services and set a section 366.26 hearing to select a permanent plan for Madeline and

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<sup>1</sup> All code references are to the California Rules of Court.

<sup>2</sup> All statutory references are to the Welfare and Institutions Code.

Emma. The agency also advised the court that Justin's wife contacted the agency in early March 2016, stating that Tiffany was pregnant when Justin met her and he wanted to take a paternity test. Justin was in Madeline's life until she was one year old and Madeline called him on the telephone and called him "dad." The social worker sent Justin a "Statement Regarding Parentage" form (JV-505).

Justin completed the JV-505, which the agency submitted to the juvenile court. In his JV-505, Justin stated that he told his wife and other specified relatives that Madeline was his child. He took care of Madeline until Tiffany moved to California and then talked to Madeline every day on the telephone until Tiffany and her boyfriend became engaged. He also wanted to see Madeline in person but Tiffany's boyfriend threatened to harm him.

In March 2016, the juvenile court convened the six-month review hearing, appointed counsel for Justin and ordered paternity testing for him. The court also set the matter as a contested hearing, which it scheduled for the following month.

In April 2016, Justin's attorney appeared at the contested six-month review hearing and advised the court that Justin was unsure if he was Madeline's father and took no position on the agency's recommendations. The juvenile court terminated Tiffany's and Aaron's reunification services and set a section 366.26 hearing as to Madeline and Emma.

This petition ensued.

## **DISCUSSION**

A lower court's judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Consequently, an "appellant must affirmatively demonstrate error by an adequate record." (*Bennett v. McCall* (1993) 19 Cal.App.4th 122, 127.) With respect to writ petitions challenging the setting of a section 366.26 hearing, rule 8.452 specifies, inter alia, that the writ petition must include a summary of the significant facts and identify contested legal points with citation to legal authority and

argument. (Rule 8.452(b).) At a minimum, the writ petition must “adequately inform the court of the issues presented, point out the factual support for them in the record, and offer argument and authorities that will assist the court in resolving the contested issues.” (*Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 583.)

In this case, Justin does not provide a summary of the facts, citation to the appellate record, or legal authority to support a claim of juvenile court error. Rather, aside from identifying information, the writ petition is blank, including the space provided for specifying the grounds for error. Since Justin fails to set forth a claim of error and since we do not independently review the appellate record for possible errors (*In re Sade C.* (1996) 13 Cal.4th 952, 994), his petition is facially inadequate and insufficient for review. Accordingly, we will dismiss the petition.

#### **DISPOSITION**

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