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

LUIS C.,

Petitioner,

v.

THE SUPERIOR COURT OF MERCED
COUNTY,

Respondent;

MERCED COUNTY HUMAN SERVICES
AGENCY,

Real Party in Interest.

F073887

(Merced Super. Ct. No. 15JP00078)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Brian L. McCabe, Judge.

Luis C., in pro. per., for Petitioner.

No appearance for Respondent.

James N. Fincher, County Counsel, and Claire S. Lai, Deputy County Counsel, for Real Party in Interest.

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* Before Levy, Acting P.J., Poochigian, J. and Smith, J.

Luis C. (father), in propria persona, seeks extraordinary writ relief from the juvenile court's orders terminating his reunification services and setting a Welfare and Institutions Code section 366.26¹ hearing as to his now 11-year-old son Dominick C., six-year-old son Samuel C. and four-year-old daughter Viviana C. He contends the juvenile court erred in terminating his reunification services based on the length of his prison sentence and seeks an order continuing his services. He also wants the children to be placed with their maternal grandmother and objects to them being placed in any other home. We deny the petition.

PROCEDURAL AND FACTUAL SUMMARY

Dependency proceedings were initiated in May 2015 after law enforcement served a search warrant at father's residence and located four loaded guns, including a loaded assault rifle, which were easily accessible to then 10-year-old Dominick, five-year-old Samuel and three-year-old Viviana. Father was a validated gang member and had recently participated in three separate gang related shootings, including driving the vehicle during the shooting, providing a vehicle for a shooting and supplying a gun for a shooting. Father's wife, Fatima C., the children's mother, was involved in the day-to-day criminal activities of the gang. Father and Fatima were arrested on multiple felony charges and the children were taken into protective custody and placed with their maternal aunt and maternal grandmother.

In July 2015, the juvenile court exercised its dependency jurisdiction over the children and ordered reunification services for father and Fatima. Father's services plan required him to complete a parenting program, and a drug assessment and submit to random drug testing.

¹ All statutory references are to the Welfare and Institution Code.

In its report for the six-month review hearing, the Merced County Human Services Agency (agency) recommended the juvenile court terminate Fatima's reunification services because she had been sentenced and her sentence would exceed the statutory limitation on family reunification services. The agency recommended the court continue services for father because he had not yet been sentenced.

At the six-month review hearing in February 2016, the juvenile court adopted the agency's recommendations and set the 12-month review hearing for August 2016.

In April 2016, the agency filed a section 388 petition asking the juvenile court to terminate father's reunification services and set a section 366.26 hearing to implement a permanent plan. The agency alleged that father would not be able to reunify with the children because he had been sentenced to 17 years and four months in prison. The agency believed it would be in the children's best interest to be placed in a legal guardianship with their maternal grandmother.

In May 2016, the juvenile court conducted a hearing on the agency's section 388 petition. Father appeared telephonically and told the court that he had been sentenced to three years in prison. Father's attorney informed father in open court that the children were in the custody of their maternal grandmother and that the plan was to appoint her legal guardian over them. Father's attorney submitted the matter for the court's decision. The court granted the agency's petition, vacated the 12-month review hearing and set a section 366.26 hearing for September 2016.

DISCUSSION

Father challenges the termination of his reunification services because he believes he may be released in less than three years. When he is released he plans to take care of his children. Therefore, he contends that he could benefit from reunification services whether he is released in three years or sooner and his sentence should not be grounds for terminating his services.

The Legislature placed a limit on the duration of reunification services in keeping with its goal of affording a dependent child stability and permanency. The outer limit on reunification services is 24 months from the date the child was originally removed from parental custody. (§ 361.5, subd. (a)(4).) In this case, services could not have extended beyond May 2017, even under the best of circumstances since the children were originally removed in May 2015. Consequently, the juvenile court did not have the authority to provide father reunification services for the duration of his incarceration be it three years or less.

Further, the juvenile court cannot guarantee that the children will remain in the care of their maternal grandmother. Generally, the agency manages the placement of a dependent child in compliance with statutory guidelines. (§ 361.2, subd. (e).) One of the guidelines requires the agency to place the child with an appropriate relative as long as such placement serves the child's best interest. (§ 361.3, subd. (a).) In this case, the agency placed the children with their maternal grandmother and intended to formalize the placement under a legal guardianship. Whether that occurs is a decision the juvenile court will make at the section 366.26 hearing which has yet to occur. Consequently, the issue is premature for our review.

DISPOSITION

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