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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

T.G.,

Petitioner,

v.

THE SUPERIOR COURT OF SANTA  
CRUZ COUNTY

Respondent;

SANTA CRUZ COUNTY HUMAN  
SERVICES DEPARTMENT,

Real Party in Interest.

No. H038328  
(Santa Cruz County  
Super. Ct. No. DP002365)

Petitioner T.G. challenges by pro per writ petition the juvenile court's order terminating reunification services and setting a Welfare and Institutions Code section 366.26<sup>1</sup> hearing. Petitioner's son had been detained at his birth, 18 months prior to the juvenile court's May 2012 termination of services. His son was placed in his and the mother's custody in January 2012, but they both almost immediately began using narcotics again. Petitioner contends that the juvenile court should have either allowed his

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<sup>1</sup> Subsequent statutory references are to the Welfare and Institutions Code unless otherwise specified.

18-month old son to be in his custody while he completed a one-year “recovery program” or continued reunification services for an extended period. We deny the petition.

### **I. Background**

C.G. (the minor) was detained shortly after his birth in October 2010, and the Santa Cruz County Human Services Department (the Department) filed a petition under section 300, subdivisions (b) and (j). Both the minor and the mother had tested positive for methamphetamine at the time of his birth. The mother admitted that she had smoked methamphetamine three days before the minor’s birth. Petitioner and the mother both had a history of substance abuse. The mother also had a history of neglecting the minor’s two older half siblings, who were also detained. In December 2010, the court sustained the petition, took jurisdiction, removed the minor from parental custody, and ordered reunification services. The minor was placed in foster care.

Although the parents made a “slow start” on their case plans, by the time of the six-month review hearing in June 2011 they had made enough progress that services were continued. Petitioner completed an outpatient substance abuse program in June 2011. However, he did not consistently drug test, and he failed to provide verification of his attendance at AA/NA meetings. The 12-month review hearing was originally scheduled for December 2011, and the Department initially intended to recommend continuation of services. The parents had continued to make progress, and they had had successful overnight visits with the minor. The Department was hoping that the minor could be returned to the parents’ care within a couple of months. The 12-month review hearing was continued to January 2012.

By the time of the January 17, 2012 hearing, the Department had changed its recommendation and sought to have the minor placed with the parents with family maintenance services. The court accepted this recommendation, and the minor was placed with the parents on January 17. After the minor was placed with them, the parents

almost immediately relapsed into substance abuse. Neither of them did anything to protect the minor from the consequences of their substance abuse. On multiple occasions, the social worker visited the parents' home and found the minor's young half siblings playing outside unsupervised. Petitioner was "hardly ever home" due to his employment.

On February 24, the mother entered a treatment program where she was initially permitted to have the minor with her, but she soon left the program. Petitioner, who had not been drug testing regularly as required by his case plan, was instructed by the social worker to drug test on February 17. He failed to do so until March 13. Although the Department wanted him to enter a substance abuse treatment program, petitioner was not willing to enter a treatment program that would interfere with his work schedule.

Several years earlier, petitioner had participated in a program run by his church, Victory Outreach, that was intended to help with his substance abuse problems. He had not completed that one-year program. Victory Outreach's program is not a licensed residential substance abuse treatment program and does not require participants to drug test or attend AA/NA meetings. The program also does not involve substance abuse counselors but only "[p]eer counseling." The Victory Outreach program is a "church ministry" run by petitioner's pastor. Most of Victory Outreach's 65 to 75 parishioners are "ex-drug addicts or ex-gang members or ex-alcoholics." The pastor described the "treatment plan" at Victory Outreach's program as "in the Bible" and primarily based on establishing "a relationship with God" through prayer. The pastor believed that the participants in his program were not having problems with substance abuse but with "sin."

In March 2012, petitioner again began participating in Victory Outreach's program. The pastor arranged that petitioner could participate in the program even though petitioner was at work most of the time and therefore could not be involved in many of the program's activities. The pastor expected that the program would require

petitioner's participation for "at least" a year. The pastor also was willing to provide a room where petitioner could live with the minor in the pastor's home, but the pastor was unable to identify any "safeguards" that would ensure the minor's safety in the home. The parents were no longer together, and petitioner had no other residence.

The Department filed a supplemental petition under section 387. On March 22, 2012, the court ordered the minor detained. The Department's recommendation was that services be terminated. By the time of the May 2012 hearing on the supplemental petition, more than 18 months had elapsed since the minor's October 2010 detention and 17 months had elapsed since his placement in foster care. He had spent only two months of his life in parental custody.

At the hearing, petitioner did not challenge the petition's jurisdictional allegations that the previous disposition had been ineffective due to the parents' relapse. He asked the court not to remove the minor from his custody but to allow him to retain custody while he resided at his pastor's home and participated in the Victory Outreach program. Alternatively, he asked the court to extend the reunification period on the ground that he was participating in a residential treatment program. However, petitioner conceded that Victory Outreach's program was not a residential treatment program.

The court sustained the supplemental petition and terminated services. It found that placement with petitioner would put the minor's physical health in danger. The court also found that Victory Outreach's program was not akin to a court-ordered residential substance abuse treatment program and therefore did not justify an extension of services. In addition, the juvenile court found that there was not a probability of return within a few months because petitioner had not made substantial progress on his case plan. Finally, the court found that it would not be in the minor's best interest to extend services. A section 366.26 hearing was set for September 13, 2012. On May 22, 2012, petitioner filed a notice of intent to file a writ petition. He filed a writ petition on June 18, 2012.

## II. Analysis

“For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under three years of age, court-ordered services shall be provided for a period of six months from the dispositional hearing as provided in subdivision (e) of Section 366.21, but no longer than 12 months from the date the child entered foster care as defined in Section 361.49 unless the child is returned to the home of the parent or guardian.” (§ 361.5, subd. (a)(1)(B).) “Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period *not to exceed 18 months after the date the child was originally removed* from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period *only if* it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, or parent or parents *court-ordered to a residential substance abuse treatment program*, including, but not limited to, barriers to the parent’s or guardian’s access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.” (§ 361.5, subd. (a)(3), italics added.)

Because a child under the age of three, like the minor, has a great need for stability, reunification services are ordinarily limited to 12 months from placement in foster care and may be extended to a maximum of 18 months from detention only if the juvenile court finds that there is a substantial probability that the child will be returned to parental custody during that period or that reasonable services have not been provided. Here, services were provided for more than 12 months, and, at the time of the May 2012 hearing, more than 18 months had elapsed since the minor's detention.

The juvenile court found that reasonable services had been provided, and the record supports this finding. As the court noted, every possible resource had been utilized in trying to help petitioner and the mother regain custody of the minor. It was petitioner's failure to comply with his case plan that doomed these efforts.

Nor was there any other basis for an extension of services. Both the 12-month and 18-month periods had expired, and there was no factual basis for a belief that petitioner would soon be able to safely parent the minor. After more than 12 months of services, during which he was only intermittently compliant with his case plan, petitioner relapsed almost immediately when the minor was returned to parental custody. And that was when the mother was the primary caregiver, and petitioner was rarely home. Petitioner has never been the primary caregiver for the minor. Under these circumstances, it would have been nearly impossible for the juvenile court to find that petitioner could both overcome his substance abuse and learn to be the primary caregiver for his 18-month old son in a few weeks given that he had failed to do so over the previous 18 months. The juvenile court did not err in terminating services.

Nor did the juvenile court err in failing to allow the minor to be placed in petitioner's custody without services. Petitioner had never been the primary caretaker for the minor. During the approximately one month when the minor was in joint parental custody, petitioner was rarely home, and he did nothing to mitigate the mother's obvious neglect of the minor and his half siblings. At the time of the juvenile court's ruling,

petitioner had no residence other than a proffered room in his pastor's home, and he made no attempt to demonstrate that he had arranged for the minor's care while he was at work or participating in the Victory Outreach program. The juvenile court could reasonably conclude that placement in petitioner's custody would endanger the minor's physical health.

### **III. Disposition**

The petition is denied.

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Mihara, J.

WE CONCUR:

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Elia, Acting P. J.

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Márquez, J.