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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

V.G.,

Petitioner,

v.

SUPERIOR COURT OF
LOS ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Real Party in Interest.

No. B301088

(Super. Ct. No.
18CCJP07477A-C)

ORIGINAL PROCEEDING; petition for extraordinary writ.
Craig Barnes, Judge. Writ granted.

Los Angeles Dependency Lawyers, Inc., Law Office of Amy
Epstein, Shannon Humphrey and Leah Rosario for Petitioner
V.G.

No appearance for Respondent.

Mary C. Wickham, County Counsel, and Jacklyn K. Louie,
Principal Deputy County Counsel, for Real Party in Interest, Los
Angeles County Department of Children and Family Services.

Children's Law Center of California, Firm 2, Stacie
Hendrix for Minors D.M., N.M., and S.M.

I. INTRODUCTION

V.G. (mother), the Department of Children and Family Services (Department), and counsel for minors agree this writ petition should be granted because the juvenile court abused its discretion in denying mother's request for a contested six-month review hearing before it terminated reunification services and set the matter for hearing pursuant to Welfare and Institutions Code section 366.26.¹ We concur.

II. DISCUSSION

D.M., N.M., and S.M. were detained from mother on November 16, 2018, after the Department received referrals alleging mother hit two-year-old D.M. and tested positive for methamphetamine when she gave birth to S.M. The Department subsequently filed a section 300 petition, which was sustained against mother on February 5, 2019.

Two days later, mother was arrested for corporal injury to a spouse and for violating a restraining order. She was convicted

¹ All further statutory references are to the Welfare and Institutions Code.

and sentenced to a year in jail. Mother remained in custody on March 20, 2019, when the juvenile court held a disposition hearing and ordered reunification services.

Mother was released from custody on July 11, 2019, but re-arrested on August 20, 2019, for spousal assault with injury. On September 18, 2019, the juvenile court held a six-month review hearing, at which the Department recommended termination of reunification services. Mother was not present, as she was again in custody.

Because mother was in custody and not present at the hearing, mother's counsel requested a continuance, which the juvenile court denied.

Counsel then asked the juvenile court to set the matter for a contested hearing. In response to the court's question about the basis for the request, counsel responded she wanted mother to be present for the hearing as mother's fundamental right was at stake and mother had provided no instruction to counsel. The court denied the request for a contested hearing, terminated reunification services, and set the matter for a hearing pursuant to section 366.26. Mother timely filed a writ petition. She contends the court abused its discretion in terminating reunification services without granting her request for a contested review hearing.

The Department concedes that the juvenile court abused its discretion under *In re James Q.* (2000) 81 Cal.App.4th 255. On these facts, we accept the Department's concession and conclude that the court abused its discretion when it denied mother's request for a contested hearing.

III. DISPOSITION

The petition for extraordinary writ is granted. The juvenile court is directed to vacate its September 18, 2019, order setting the matter for hearing pursuant to section 366.26 and set the matter for a contested six-month review hearing under section 366.21, subdivision (e).

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KIM, J.

We concur:

RUBIN, P. J.

BAKER, J.