S271809

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

MICHAEL G.,

Petitioner

vs.

SUPERIOR COURT OF ORANGE COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES AGENCY, et al.,

Real Parties in Interest

After a Decision by the Court of Appeal
Fourth Appellate District, Division Three, Case No. G060407
(*Michael G. v. Superior Court* (2021) 69 Cal.App.5th 1133)
Denying a Petition for Extraordinary Writ Relief to the Superior Court
For the County of Orange, Case No. 19DP1381
Honorable Antony C. Ufland, Judge

ANSWER BRIEF ON THE MERITS

LEON J. PAGE, COUNTY COUNSEL,
KAREN L. CHRISTENSEN, SUPERVISING DEPUTY,
AURELIO TORRE, SENIOR DEPUTY – SBN 228920,
DEBORAH B. MORSE, DEPUTY – SBN 265331, and
*JEANNIE SU, SENIOR DEPUTY – SBN 207005

Post Office Box 119
Santa Ana, CA 92702
Telephone: 714/834-2605; Facsimile: 714/834-2770
Email: Jeannie.Su@coco.ocgov.com
Aurelio.Torre@coco.ocgov.com
E-Service: OCCoCo.Appeals-Service@coco.ocgov.com

Attorneys for Respondent,
Orange County Social Services Agency

Topical Index

Page(s)

Topical Index – Cont'd.

Table of Authorities

Cases **Page(s)**

Table of Authorities – Cont'd.

Cases (cont'd.) **Page(s)**

Table of Authorities – Cont'd.

Cases (cont'd.) **Page(s)**

California Statutes

Table of Authorities – Cont'd.

California Statutes (cont'd.) **Page(s)**

Table of Authorities – Cont'd.

California Statutes (cont'd.) **Page(s)**

Table of Authorities – Cont'd.

California Statutes (cont'd.) **Page(s)**

Federal Statutes

Table of Authorities – Cont'd.

Legislation and Legislative History **Page(s)**

Rules

Table of Authorities – Cont'd.

Regulations **Page(s)**

Treatises

ISSUE PRESENTED

Are juvenile courts required to extend reunification efforts beyond the 18-month review when families have been denied adequate reunification services in the preceding review period?

I. INTRODUCTION AND SUMMARY OF THE ARGUMENT

Juvenile courts are not required to extend reunification efforts beyond the 18-month review automatically when a parent or legal guardian has not received reasonable reunification services in the immediately preceding review period. Rather, the Legislature has determined that courts are permitted to extend reunification services at the 18-month review only under certain *limited* circumstances, none of which are present in the underlying case.

The statutory sections governing the 18-month review hearing allow extension of services only for parents in the limited circumstances specified in Welfare and Institutions Code[1] section 366.22, subdivision (b),[2] or via a discretionary continuance under section 352. This statutory scheme, which reflects a deliberate intent by the Legislature to balance the child's and the parents' interests, was interpreted correctly by the Fourth Appellate District, Division Three in *Michael G. v. Superior Court* (2021) 69 Cal.App.5th 1133 (*Michael G.*). Real Party in Interest, Orange County Social Services Agency (SSA), respectfully requests that this Court honor the Legislature's difficult policy choices and intent.

---

[1] All statutory references are to the California Welfare and Institutions Code unless otherwise noted.

[2] The circumstances are that the parents are in a court-ordered residential substance abuse treatment program; or are minor or nonminor dependents; or were recently discharged from incarceration, institutionalization, or the custody of the Department of Homeland Security (DHS); they must also be making significant and consistent progress. (§ 366.22, subd. (b).)

In the area of child protection, the Legislature must strike a balance between the interests of the child in safety, stability, and permanency; the child's and parents' shared interest in family preservation and reunification; and the interests of the parents in raising their child; as well as the child's best interests. The Legislature's juvenile dependency scheme deliberately re-balances those interests as a case progresses, gradually shifting away from family reunification efforts and toward giving more weight to the child's interests in stability and permanency.

A crucial shift takes place at the 12-month review hearing when, if the juvenile court has found that reasonable services have been provided to the parent or guardian, the court is first allowed to terminate services and set a hearing under section 366.26 to determine the child's permanent plan (section 366.26 hearing). If the court instead offers an additional services period, then another crucial shift takes place at the 18-month review hearing when, except under the limited circumstances set forth in section 366.22, subdivision (b), or if the court determines there are extraordinary circumstances warranting a continuance under section 352, the court must terminate services and set a section 366.26 hearing. This enables the court to fully balance all the various interests of the parents and the child.

Any extension in reunification services after the 12-month review hearing, and beyond, comes at the cost of further compromising the child's need for stability and security within a definitive time frame. A balance must be struck between the goal of reunifying the family and a child's need to flourish in the most stable environment possible. The statutory scheme reflects a policy determination by the Legislature to require that the child suffer the consequences of delay of another additional services period only where there is a real chance for reunification and if it is in the child's best interest.

In this case, while the juvenile court found the parents received reasonable services through the 12-month review hearing, it found returning the child to her parents would create a substantial risk of detriment to her safety, protection, or physical or emotional well-being. It found a substantial probability the child would be returned to parental custody within six months and extended services to the 18-month review hearing. At that hearing, the court again found return would create a substantial risk of detriment to the child. Although the court found the services provided between the 12-month and 18-month review hearings were not reasonable, it determined that additional services were not required. The court found that offering additional services would not be in the child's best interest, given the parents' lack of significant progress in resolving the problems that led to the child's removal or in establishing a safe home, or any likelihood that further services would positively impact reunification. The Court of Appeal affirmed, finding that since the parents were not in the limited circumstances enumerated in section 366.22, subdivision (b), their only avenue to obtain another extension of services was a continuance under section 352. The Court of Appeal held that the juvenile court did not abuse its discretion in finding that additional services would not be in A.G.'s best interest.

Father would have this Court mandate an automatic extension of reunification services, regardless of the Legislature's deliberate circumscribing of qualifying circumstances. Father would have this Court ignore the Legislature's careful balancing of interests and scheme that gives weight to case-specific factors thereby providing the juvenile court with the flexibility it needs in the delicate assessment of a child's needs, whether that be return to a parent or another permanent plan. Father's automatic rule would subvert the statutory scheme as it relates to protecting children,

as it would deprive the child of his or her right to a stable, permanent home in a timely manner. Father's interpretation is at odds with the structure of the applicable statutes themselves, the legislative history of those statutory sections, and much of existing authority. This Court should instead recognize and give effect to the case-and-fact-specific inquiry set forth in the existing statutory framework.

II. JUVENILE DEPENDENCY STATUTORY FRAMEWORK

"Notwithstanding any other provision of law, the purpose of the juvenile dependency law (§ 300 et seq.) is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm. (§ 300.2.) The focus shall be on the preservation of the family as well as the safety, protection, and physical and emotional well-being of the child. (*Ibid*.)" (*In re Ethan C.* (2012) 54 Cal.4th 610, 623–624 (*Ethan C*.), internal quotation marks omitted.)

Following an investigation by the county social services agency concluding that a child has been or is at risk of being abused or neglected, a determination is made whether to initiate a court case, and, if the child is at risk, to request a warrant for the removal of the child from one or both parents, removing a child only when necessary. (§§ 202, subd. (a), 340.) In exigent circumstances some children may be removed by law enforcement or a social worker without a warrant. (§§ 305, et seq., 306.)

The proceeding to declare a child a dependent of the juvenile court is commenced when a petition is filed. (§ 325, et seq.) At that initial petition or detention hearing, the juvenile court determines whether prima facie

evidence supports the continued detention of a child who has been removed from his or her parents. (§§ 315, 319.)

The next hearing is where the court determines the fundamental question of whether the child is described by section 300. At the jurisdictional phase "a minor may be adjudged a dependent (§§ 300, 360, subd. (d)) if the juvenile court finds, by a preponderance of evidence (§ 355, subd. (a))," that the child is described by any of ten subdivisions contained in section 300. (*Ethan C., supra,* 54 Cal.4th at pp. 624-625.) Those subdivisions include: serious physical harm; failure to protect; serious emotional damage; sexual abuse; severe physical abuse of a child under the age of five; causing another child's death through abuse or neglect; no provision for support; being freed for adoption but not yet adopted; cruelty; and abuse of a sibling. (§ 300.)

At the disposition hearing, the juvenile court determines whether the child shall become a dependent of the court and whether the child shall be removed from the custody of the parent. At this hearing, "the statutory scheme is designed to allow retention of parental rights to the greatest degree consistent with the child's safety and welfare, and to return full custody and control to the parents or guardians if, and as soon as, the circumstances warrant. Thus, the juvenile court may limit the parent's or guardian's supervision and control of the child in specified ways (§§ 361, subd. (a), 362), but it cannot remove the child from the parent's or guardian's physical custody, except in cases of voluntary relinquishment of the child, unless it finds, by clear and convincing evidence, that such custody would pose a substantial threat to the child of physical harm or sexual abuse, or that the child is suffering extreme emotional damage, and that there are no reasonable means of protecting the child's physical or

//

emotional well-being short of such removal. (§ 361, subds. (b)-(d).)" (*Ethan C., supra,* 54 Cal.4th at p. 625.)

"As a general rule, reunification services are offered to parents whose children are removed from their custody in an effort to eliminate the conditions leading to loss of custody and facilitate reunification of parent and child. . . . Nevertheless, as evidenced by section 361.5, subdivision (b), the Legislature recognizes that it may be fruitless to provide reunification services under certain circumstances. [Citations.]" (*In re Joshua M.* (1998) 66 Cal.App.4th 458, 471 (*Joshua M.*), internal quotation marks omitted.) Subdivision (b) of section 361.5 allows the juvenile court to deny reunification services to a parent when the court finds, by clear and convincing evidence, the presence of one of 18 exceptions.

For a child three years of age or older at the time of removal, reunification services are presumptively limited to 12 months. (§ 361.5, subd. (a)(1)(A).) "For a child under three years of age at the time of removal, [] reunification services are presumptively limited to six months. (§ 361.5, subd. (a)(2) [now subd. (a)(1)(B)].) The child's status, and the question whether services should be extended for an additional period, must be reconsidered no less frequently than every six months. (§ 366, subd. (a)(1); [Citation]) The absolute maximum period for services is 18 months (§ 361.5, subd. (a)) [now subd. (a)(3)(A)], provided the court determines at both a six-month review hearing and a 12–month review hearing that continuation of services is warranted (see § 366.21, subd. (e) [establishing procedures for the six-month review hearing]; *id*., subds. (f), (g) [establishing procedures for the 12–month review hearing])."[3] (*Tonya M.*

[3] A child is returned to a parent or guardian at any of the review hearings if the social services agency does not establish by a preponderance of the evidence that there would be substantial risk of detriment to the safety,

v. Superior Court (2007) 42 Cal.4th 836, 843 (*Tonya M.*).) "If the child is not returned at this point, the court must order a permanency planning hearing (*ibid.*), at which parental rights may be terminated and the child may be placed for adoption (§ 366.26)." (*Ethan C., supra,* 54 Cal.4th at p. 626.) However, following a 2009 amendment to section 366.22, "permanency planning may be postponed in limited circumstances where a six-month extension of reunification services is permitted (§ 366.22, subd. (b))." (*Ibid.*) Once a permanent plan has been established, the juvenile court maintains supervision, holding hearings every six months as long as such supervision is required, e.g. until the adoption is final.[4] (§ 366.3.) In certain cases a youth may become a nonminor dependent and remain under court supervision between ages 18 and 21. (§§ 366.31, 391.) Throughout, the court may continue a hearing upon a showing of good cause. (§ 352, subd. (a).)

III. STATEMENT OF THE CASE AND FACTS

A. PRE-DETENTION

The child, A.G.'s, father, Petitioner M.G. (Father), had unresolved, undiagnosed mental health issues, e.g., delusions, disordered thoughts, and excessive talk about the government, witches, state prostitutes, and cult-like government brainwashing.[5] (1Clerk's Transcript [1CT][6] 110.) The child reported Father frequently talked to himself and demons, and he said that

//

---

protection, or physical or emotional well-being of the child. (See, § 366.21, et seq.) The juvenile court may then continue supervision pursuant to section 364.

[4] At post-permanency review hearings a child may be returned to a parent in certain circumstances. (§ 366.3, subdivisions (b)(3), (e), (f), (h).)

[5] The facts described come from SSA's jurisdiction/disposition reports.

demons and witches and government were watching him or out to get him. (1CT 33-34, 75-77.) When Father thought he was paralyzed by demons, he made the child read the Bible to him. (1CT 34, 77.) Father often said voices told him to do things, and A.G. was afraid the voices would tell him to hurt her or others. (1CT 35.) Father often yelled, threw or broke things, and punched walls. (1CT 34-35, 75-78, 90.)

Others including the child's adult brother, I.G.; I.G.'s informal guardians, D.F. and her husband L.F. (1CT 86-87); and M.S., the mother of the child's friend, described Father having mental health issues that had worsened over the past couple of years. They described behaviors similar to those reported by the child, and added that Father went on incoherent rants, could not see what was or was not real, and appeared to be trying to isolate the child from friends and family. (1CT 87-94, 111.) I.G. and L.F. were similarly concerned that the voices Father was hearing might tell Father to harm the child. (1CT 88-89.)

A.G., Father, and A.G.'s mother, K.G. (Mother), reported A.G. had had no contact or relationship with Mother for years. (1CT 33, 74, 82, 85, 111.) Father reported this was for the child's protection, after Mother had absconded with the child. (1CT 82.) Mother, who lived in North Carolina (1CT 82), had a history of alcohol abuse, suicide attempts, and psychiatric hospitalizations; and was diagnosed with a severe anxiety disorder (1CT 83-84, 96, 111; see also 1CT 80-81).

On or about October 30, 2019, the child fled the home, terrified that Father was moving her quickly and secretly to somewhere unknown, as he claimed "devils" were coming for her and she would be turned into a

---

[6] The clerk's transcript consists of two volumes, hereinafter referred to as "1CT" and "2CT."

prostitute. He was screaming and throwing things. (1CT 34, 75, 111.) The child reported Father's behaviors had been escalating, and she was afraid of Father and did not feel safe with him. (1CT 33-35, 74-78.)

B. DETENTION AND PETITION

On November 5, 2019, the juvenile court detained then 14-year-old A.G. from both parents. (1CT 56; Reporter's Transcript [RT] 7.) SSA filed a petition alleging the child came under section 300, subdivision (b)(1) [failure to protect]. (1CT 49-52, 147; RT 51.) As ultimately sustained, the allegations included that Father had unresolved mental health issues. The child reported that Father heard voices and had delusions of persecution by demons, witches, and the government. The child further reported that Father had, on multiple occasions, yelled, thrown things, and punched the walls in their home. The child reported that she left the home due to Father's escalating mental health issues. Mother had a history of mental health issues which might be an unresolved problem, including attempted suicide. Mother had a criminal history including convictions and/or arrests for DUI and willful cruelty to child. Mother had not maintained a relationship with the child. The child reported that she had had no contact with Mother since she was approximately eight or nine years old. (1CT 51.)

C. JURISDICTION AND DISPOSITION

Father in his statements to social workers and testimony partially confirmed and partially denied the child's and others' reports. He repeatedly talked about witches, demons, and the government; and how they were out to get him and/or the child. (1CT 78-79, 81; RT 21-22, 32-33.) He wanted to protect the child from all the modern-day witchcraft and

from becoming a state prostitute (i.e., brainwashed by the State of California and enslaved by the anti-Christian agenda). (1CT 80-81.) He denied behaving erratically or aggressively or violently, doing anything to scare the child, hearing voices, or being told by demons or witches to do anything aggressive to the child. (1CT 79-81; RT 20, 23-24.) He denied having any mental health issues. (1CT 78, 81.)

Mother reported she was under the care of a doctor but not on any medication nor seeing a therapist. (1CT 83-84, 96, 111.) She reported she was currently sober. (1CT 96, 111.)

The child was placed in the care of I.G. and D.F. (CT 65), where she did well (1CT 94, 130, 141-142). The child stated she was not ready to visit with Father in person until he enrolled in services. (1CT 110, 130.) The child reported phone calls with Father sometimes made her feel sad, uncomfortable, intimidated, or manipulated. (1CT 130, 141-142.)

Father initially stated he would enroll in recommended services of individual counseling and parent education. (1CT 100-101.) But he made various excuses for not doing so (1CT 100-101, 130) and ultimately stated he would wait for the court hearing to determine whether he needed to attend therapy. (1CT 131, 142-143.)

At the January 28, 2020 jurisdiction/disposition hearing, the court amended and sustained the petition. (1CT 147; RT 51.) The court, while noting Father's religious freedom, found his actions, paranoid ideations, and unresolved mental health issues put A.G. in danger and were physically negatively affecting her. (RT 49-52.) The court also expressed concern that Father did not recognize he had unresolved mental health issues and needed help. (RT 51-52.)

//

The court declared the child a dependent and removed custody from both parents. (1CT 147-148; RT 52.) It ordered family reunification services for both parents (1CT 148) and an Evidence Code section 730 psychological evaluation (730 evaluation) for Father (1CT 149; RT 54).

Father appealed the jurisdiction and disposition findings and orders. (1CT 210-211.)

D. SIX-MONTH REVIEW

Both parents' case plans included requirements to not break the law; avoid arrests and convictions; maintain a relationship with the child by following the conditions of the visitation plan; comply with all orders of the court; comply with medical or psychological treatment; keep the assigned social worker informed of any pertinent changes or difficulties; sign necessary releases of information; and meet your child's physical, emotional, medical, and educational needs. (1CT 115-116; see also 1CT 266-269.) In addition, Father was to participate in counseling, parenting education, and a 730 evaluation, and follow the recommendation of that evaluation. (1CT 116-117, 148-149; see also 1CT 269-270.) Mother was to participate in counseling, and psychotropic medication evaluation/monitoring if medication was deemed necessary. (1CT 115-116; see also 1CT 268.) Father was authorized monitored visitation. (1CT 118; see also 1CT 271.) For Mother, visitation was to be deemed appropriate by the child's therapist should Mother be in California for a face-to-face visit. Mother could send letters to the social worker to be given to the child if they were appropriate and could have monitored phone calls. (1CT 118-119; see also 1CT 271.)

//

//

During the six-month review period, Senior Social Worker Kelly McBeath (SSW McBeath) reported that both parents' cooperation with the case plan and efforts and progress made toward alleviating or mitigating the causes necessitating court involvement were minimal. (1CT 257, 262-263.)

Father did not sign his case plan, indicating he did not agree with it. He also refused to sign a referral to therapy, stating he was unaware of the substantiated allegations for this case, and requested to talk to his attorney before proceeding with any services. (1CT 257, 263.) He did not believe he needed a mental health evaluation or counseling services. (1CT 257.) He did not proceed with the 730 evaluation, claiming his First Amendment rights were being violated. (1CT 218-219, 257.)

Father's visits, by phone, made the child feel stressed and worried. (1CT 254.) Father frightened her with talk about his theoretical and religious viewpoints involving the government. (1CT 262.) The child did not wish to have contact until Father engaged in mental health treatment. (1CT 254, 260, 262-263.) Her therapist recommended it would not be in her best interest to engage with Father if he was untreated. (1CT 262.)

Mother reported she participated in a few counseling sessions, then was terminated for not following up. (1CT 257, 262, 281.) Mother wrote letters to the child. (1CT 262-263.)

The child was doing well in the stable, loving home of her caretakers. (1CT 247, 251-256, 262, 282.)

At the September 15, 2020 six-month review hearing, the court found return of the child to the parents would create a substantial risk of detriment to her safety, protection, or physical or emotional well-being. It found reasonable services had been provided to the parents, and the extent of progress which had been made toward alleviating or mitigating the

causes necessitating placement by both parents had been minimal. The court continued the case for a 12-month review hearing. (1CT 284.)

E. 12-MONTH REVIEW

On October 27, 2020, the Fourth District, Division Three issued an opinion in related appeal *In re A.G.*, G059045, affirming the jurisdiction and disposition findings and orders. (1CT 290 - 2CT 302.)

SSW McBeath reported that Father's cooperation with his case plan and his efforts and progress made toward alleviating or mitigating the causes necessitating court involvement were moderate. (2CT 348.) Father signed the case plan and engaged in services including individual counseling and parenting classes. (2CT 350-352, 357, 373.) After initially rejecting attempts to schedule the 730 evaluation, Father finally participated in the evaluation in November 2020, shortly before the 12-month review hearing, and only after his appeal of the juvenile court's original jurisdiction and disposition findings and orders was unsuccessful. He noted he was against the evaluation but needed to show the judge progress. (2CT 318, 351-352, 373.)

Father made himself available for visitation. The child still was not open to in-person visits, and the plan was to gradually increase phone calls and progress to in-person visits. (2CT 355-357, 373-374; see also 2CT 365.) The child expressed she would like to have more time to participate with Father in reunification services. (2CT 356-357.)

Mother's cooperation with the case plan and efforts and progress made toward alleviating or mitigating the causes necessitating court involvement was minimal. (2CT 348.) Mother reported she re-started counseling. (2CT 348-349, 357.) No in-person visitation or phone calls

occurred. The child did not feel comfortable speaking with Mother, and she desired to focus on salvaging a relationship with Father. (2CT 355-357, 374.) Mother expressed understanding that the child might need more time before she was ready to have regular contact with Mother. (2CT 356.) Both parents, however, attempted to contact the child on social media platforms, outside of the case plan parameters. (2CT 349, 352-353, 357.)

The child continued to thrive and feel safe with her caregivers. (2CT 344-347, 373.) Her therapist reported she had made good progress and therapy could end. (2CT 373; see also 2CT 403.)

At the December 17, 2020 12-month review hearing, the court found return of the child to the parents would create a substantial risk of detriment to her safety, protection, or physical or emotional well-being. It found reasonable services had been provided to the parents, and the extent of progress which had been made toward alleviating or mitigating the causes necessitating placement by Father had been moderate, and by Mother had been minimal. (2CT 378.) It found a substantial probability the child would be returned to parental custody within six months and extended services to the 18-month review hearing. (2CT 378-379.) It adopted essentially the same case plan as before. (2CT 360-364; see 1CT 115-117, 2CT 266-270.) It also ordered SSA to make best efforts to establish visitation between Mother and the child, and to assess the appropriateness of conjoint counseling. (2CT 379.)

F. 18-MONTH REVIEW

The hearing went forward on June 17, 18, 21, and 22, 2021. (2CT 453-457, 459-464.)

//

//

1. Father's Psychological Evaluation

Dr. Gerardo Canul interviewed Father on November 24, 2020, and on or around December 17, 2020 submitted his 730 evaluation report to the court. (2CT 384-395.) Dr. Canul reported that Father stated his understanding of the purpose for the evaluation was "because the Court believes my religious beliefs put my daughter in danger." (2CT 385.) Father reported demons and angels existed, as described in the Bible, and Satan was in control of our planet in a spiritual sense. (2CT 387.) He described asking the child to read the Bible to him when he thought a demon was attacking and paralyzing him. (2CT 390.) Regarding the child's reaction to his behavior, he stated he did not know what the child was thinking, and he denied punching walls. (2CT 391.)

Father denied any history of delusions, or having any current odd behaviors, thoughts, or hallucinations. He was unable to recognize that his rigidly held beliefs on religion and his tangential thinking pattern was problematic for him and in his parenting of the child. (2CT 392.)

Father had significant psychological and psychiatric problems. He had a pattern of defiance towards taking part in his case plan, and a likely undiagnosed history of thinking problems. (2CT 393.) Recommended treatment was maintaining individual counseling, and ongoing active monitoring and consultation with a psychiatrist to effectively manage his mental health functioning, including treating his possible symptoms of depression and thinking problems/odd beliefs. (2CT 393-394.)

Father strongly disagreed that he needed psychiatric monitoring or medication. (2CT 392.) When asked how he planned to maintain his psychiatric consultation/monitoring he said, "not at this time." (2CT 389.)

Father's prognosis was guarded. His self-reported history, history of current psychiatric/psychological challenges, self-reported unwillingness to receive psychiatric treatment, and history of minimal social/familial support were challenging factors. (2CT 394.)

2. Social Worker Reports and Testimony

Senior Social Worker Raul Reyes (SSW Reyes) was assigned to the case on February 3, 2021. (2CT 400). The child and her caretaker, D.F., expressed interest in D.F. becoming the legal guardian, and in June 2021, SSW Reyes recommended terminating reunification services and setting a section 366.26 hearing. (2CT 449-450; RT 72-73.)

SSW Reyes reported Father made moderate progress with his case plan objectives. (2CT 404-405, 411.) He completed certain services (RT 93): a parent education program (2CT 407, 411), and general counseling on April 15, 2021 (2CT 406, 411). His therapist reported he was consistently participating; and they were working on him gaining an understanding of his daughter's perspective, strategies to strengthen their communication, and building a supportive and safe environment. (2CT 400-401, 406.) His therapist reported he had only begun to understand why the child became frightened and her continued fearfulness when he spoke about demons and asked her to pray for him. (2CT 406; RT 105.) His therapist was not sure if he believed that was the reason the child left. (2CT 406; RT 104, 107.) She shared that Father did not see a need for his 730 evaluation. (2CT 406.)

Father did not participate in psychiatric counseling. (2CT 411.) Father told SSW McBeath that the 730 evaluation contained many errors and was written poorly, and he questioned its integrity. (2CT 406.)

Despite attempts to locate the 730 evaluation (2CT 407, 411; see RT 109, 111), SSW Reyes did not receive it until June 17, 2021, at the start of the hearing (RT 72). SSW Reyes did not make referrals for a psychiatrist or psychiatric medication or for further individual counseling. (RT 91-92, 108.)

Father reported he had consistent, weekly telephone contact with the child. (2CT 400, 408, 411; RT 99.) In March 2021, the child expressed that phone calls went well, and she was open to video calls. She wanted to hold off on in-person visits, until Father received psychological help and was on medication. (2CT 408, 411; RT 67, 90.) Thus, although SSW Reyes asked the child about conjoint counseling, he did not refer her. (RT 104-105, 116-117.) On May 18, 2021, the child stated that she was open to in-person visits. (2CT 441.) However, a few days before, Father had left to move to North Carolina, only telling the child's brother, I.G., the night before he left, and not saying goodbye or giving anyone advance notice that he was leaving. (2CT 441-442; RT 70-71.)

Mother made minimal progress with her case plan objectives. (2CT 404, 411.) She stopped counseling and was not taking any medication or seeing a psychiatrist. (2CT 401, 405, 411; RT 64-66, 71.) She had no in-person visits or phone calls with the child. (2CT 408.) She sent two cards. (2CT 408, 411; RT 66, 84.) SSW Reyes had believed Mother's case plan permitted only written communication. (RT 66, 69, 80.)

The child continued to be happy and stable living with her caregivers, where she felt safe. (2CT 401-403, 410-411, 441.)

//

//

3. Juvenile Court Ruling

The court found that returning the child to parental custody would create a substantial risk of detriment to her safety, protection, or physical or emotional well being. (2CT 462; RT 164.) It found the progress toward alleviating or mitigating the causes necessitating placement had been minimal for Mother and moderate for Father. (2CT 462; RT 164.) It found reasonable services had not been provided, because it was not reasonable that SSW Reyes failed to obtain Father's 730 evaluation until right before the 18-month review hearing, when the court made it clear from early on that Father's psychological issues needed to be determined and incorporated in his case plan; and that SSW Reyes erroneously believed Mother was only allowed written communication with the child. (2CT 462; RT 164-168.)

The court noted that reasonable services were found to have been provided previously during the six-month and 12-month review periods, which it "firmly believe[d]" was the "right call, given the involvement or lack thereof of the parents at that time." (RT 165.) During the earlier review periods, Father "dragged his feet." (RT 165.) He delayed participating in the 730 evaluation until November 2020, and only after his appeal of the jurisdiction/disposition orders failed. (RT 165-166.) Father made clear at his 730 evaluation that he did not intend to participate in any further psychological, psychiatric, or medication services. (RT 166-167.)

The court concluded that at the 18-month review, the lack of a finding of reasonable services did not automatically require the court to extend services. The court applied the factors allowing continuation of reunification services in limited circumstances under section 366.22, subdivision (b)(1)-(3). It reasoned that, given the parents' lack of

consistent and regular contact and visitation, lack of significant and consistent progress in the prior 18 months in resolving the problems that led to the child's removal, and lack of evidence that either parent had demonstrated the capacity or the ability to complete the components of the case plan, it could not find that additional services in this case would be in the child's best interest, that the parents were making significant and consistent progress in treatment or in establishing a safe home, or that there was a likelihood that further services would positively impact reunification. (RT 168-169.) It terminated reunification services (2CT 462; RT 169) and set a section 366.26 hearing (2CT 462, 464; RT 169, 171), as requested by SSA and minor's counsel (RT 122-132).

G. COURT OF APPEAL RULING

On October 6, 2021, the Fourth Appellate District, Division Three denied the parents' writ petitions. (*Michael G., supra,* 69 Cal.App.5th at p. 1144.) The Court found that the juvenile court is not required to extend reunification services at the 18-month review despite denial of reasonable reunification services in the preceding review period, except for parents in the limited circumstances specified in section 366.22, subdivision (b). (*Id*. at pp. 1141-1144.) The Court found the statutory scheme provides parents with fundamental fairness and therefore satisfies due process requirements. (*Id*. at p. 1145.) For all parents, the juvenile court has the discretion to extend reunification services under section 352. The juvenile court did not abuse its discretion in finding that additional services would not be in A.G.'s best interest. (*Ibid*.)

Father's petition for review was filed with this Court on November 15, 2021 and granted on January 19, 2022.

//

IV. ARGUMENT

A. THE LEGISLATURE HAS STRUCTURED A DEPENDENCY SYSTEM THAT BALANCES MULTIPLE, SOMETIMES COMPETING INTERESTS, AND INCLUDES SHIFTING PRESUMPTIONS BASED ON THE LENGTH AND STATUS OF THE CASE

This Court has long established that it does not sit in judgment of the Legislature's wisdom in balancing competing public policies, but instead follows the Legislature's discernable public policy choices. (*Los Angeles County Metropolitan Transportation Authority v. Alameda Produce Market, LLC* (2011) 52 Cal.4th 1100, 1113-1114.) "The judiciary, in reviewing statutes enacted by the Legislature, may not undertake to evaluate the wisdom of the policies embodied in such legislation; absent a constitutional prohibition, the choice among competing policy considerations in enacting laws is a legislative function." (*Superior Court v. County of Mendocino* (1996) 13 Cal.4th 45, 53.) "In sum, the Legislature is better situated than we are to tackle the '[s]ignificant policy judgments affecting social policies and commercial relationships' implicated in this case. [Citations.]" (*Sheen v. Wells Fargo Bank, N.A.* (2022) 12 Cal.5th 905, 290 Cal.Rptr.3d 834, 864.) An argument that the statutes could or should have been written differently is more appropriately addressed to the Legislature, which can study the various policy and factual questions and decide what rules are best for society. (*Skidgel v. California Unemployment Ins. Appeals Bd.* (2021) 12 Cal.5th 1, 26.)

The 18-month review requirements at issue must be interpreted in the context of the entire dependency scheme. "Dependency provisions 'must be construed with reference to [the] whole system of dependency law, so that all parts may be harmonized.' (*In re David H.* (1995) 33

Cal.App.4th 368, 387, 39 Cal.Rptr.2d 313; accord, *In re Marilyn H.* (1993) 5 Cal.4th 295, 307, 19 Cal.Rptr.2d 544, 851 P.2d 826 ['One section of the dependency law may not be considered in a vacuum']; *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 253, 19 Cal.Rptr.2d 698, 851 P.2d 1307 [individual dependency statute 'cannot properly be understood except in the context of the entire dependency process of which it is part'].)" (*Tonya M., supra,* 42 Cal.4th at pp. 844-845.)

The shifting presumptions and standards described *infra* exemplify the increasing importance of permanency and stability as dependency cases progress. "[T]he legislative recognition that time is of the essence…indicates the statute should be read in favor of promoting prompt rather than delayed resolutions." (*Tonya M., supra,* 42 Cal.4th at p. 847.)

The Legislature's juvenile dependency scheme constantly re-balances various interests as a case progresses. Ideally, all these goals align. But oftentimes they collide, and our Legislature, in developing the framework courts must apply, has the unenviable task of balancing difficult, emotionally fraught demands.

The dependency system has three primary goals. The first is to provide maximum safety and protection for children who are being, or are at risk of being, seriously abused, neglected, or exploited. (§ 300.2; see also §§ 202, subd. (a), 361, subd. (c)(1), 361.2, subd. (a), 361.3, subd. (a)(8), 366.21, subd. (e)(1).) The second goal is to preserve families and safeguard parents' fundamental right to raise their children. (§§ 202, subd. (a), 300.2; see also § 361.5, subd. (a).) The child may be removed from the custody of his or her parents only when necessary for his or her welfare. (§ 202, subd. (a), 361, subd. (c).) If removal is determined by the juvenile

//

court to be necessary, reunification of the child with his or her family is a primary objective. (§ 202, subd. (a).)

The third goal is to provide a stable, permanent home for the child in a timely manner. Children are better served by a permanent placement through adoption or guardianship than in foster care. (§ 396.) "We have long recognized that providing children expeditious resolutions is a core concern of the entire dependency scheme." (*Tonya M., supra,* 42 Cal.4th at p. 847 n.4.) "[D]ependent children have a critical interest in avoiding unnecessary delays to their long-term placement." (*In re A.R.* (2021) 11 Cal.5th 234, 249.) There is also the fundamental, overarching goal: the child's best interests. (§ 202, subd. (b).)

The dependency scheme sets up distinct periods and escalating standards for the provision of reunification services. The effect of these shifting standards is to make services first presumed, but then increasingly difficult to extend as the case progresses. (See *Tonya M., supra,* 42 Cal.4th at p. 845 [discussing the "shifting standards" in the context of children under age three at the time of removal].)

Between the dispositional hearing at which services are ordered and the review hearing held pursuant to section 366.21, subdivision (f) (the 12-month review hearing or permanency hearing), services are afforded as a matter of right, to parents of children three years or older at the time of removal from parental custody. (§ 361.5, subd. (a)(1)(A)).

The child's stability and permanency become more of a focus once a parent fails to reunify by the 12-month hearing, as it becomes clear that reunification may not occur. At that point, there is a shift in the balancing of interests toward the child's interests in permanency and stability, and the court is allowed to terminate reunification services and set a section 366.26

hearing. (§ 366.21, subd. (g)(4).) The court may extend reunification services, to the review hearing held pursuant to section 366.22, subdivision (a) (the 18-month review hearing or permanency review hearing), only if it finds there is a substantial probability the child will be returned safely to the parent's custody within the extended time period, or if it finds reasonable services were not provided. (§§ 361.5, subd. (a)(3)(A), 366.21, subd. (g)(1).)

At the 18-month review hearing, if the child is not returned, the balancing of interests shifts definitively towards the child's stability and permanency in all but specifically-excepted cases. "Section 366.22, subdivision (a), further provides that at the 18-month permanency review, '[u]nless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court *shall* order that a hearing be held pursuant to Section 366.26...' (Italics added.)" (*Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1502 (*Earl L.*).) As discussed in depth *infra*, an additional extension of services is barred except for parents in the limited circumstances specified in section 366.22, subdivision (b), or if the parents obtain a continuance under section 352.

Historically, the time at which reunification services are terminated and a section 366.26 hearing is set is when the parent's interest in reunification is no longer given precedence over the child's need for stability and permanency. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 307, 309-310 (*Marilyn H.*); see also *In re Stephanie M.* (1994) 7 Cal.4th 295, 317; *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 254-256.) However, the Legislature has for some time also placed early emphasis on the child's stability and permanency. For decades now the juvenile law statutory scheme has required that permanency planning services must be

implemented concurrently with a child's removal from parents and the order of reunification services. (§§ 358.1, subd. (b), 366.21, subd. (l)(3) [provision regarding concurrent planning added by a 2000 amendment, Stats. 2000, ch. 910, § 9], 16501.1, subd. (g)(10) [provision that the case plan must include concurrent planning services added by a 1997 amendment, Stats. 1997, ch. 793, § 31]; California Rules of Court, rules 5.708(b)(1)(B), 5.690(a)(1)(B)(ii).

Father would have this Court adopt a prophylactic rule of automatically delaying the section 366.26 hearing based on a finding of no reasonable services in the immediately preceding review period, regardless of any potential harm suffered by the child due to such delay. (See Opening Brief 41-42, 61-64.) This rule would subvert the statutory scheme, by penalizing the child by delaying his or her stable, permanent home. This Court should instead recognize and give effect to the case-and-fact-specific inquiry set forth in the existing statutory framework. As SSA will demonstrate *infra*, Father's contrary interpretation of section 366.22 and section 361.5 is at odds with the structure of the applicable statutes themselves, the legislative history of those statutory sections, and much of existing authority.

B. THE PLAIN MEANINGS OF WELFARE AND INSTITUTIONS CODE SECTION 366.22, SUBDIVISION (b) AND SECTION 361.5, SUBDIVISION (a)(4)(A) ESTABLISH THAT A FAVORABLE REASONABLE SERVICES FINDING IS UNNECESSARY TO SET A SECTION 366.26 HEARING AT THE 18-MONTH REVIEW HEARING

By the 18-month review hearing, the Legislature prioritizes the child's stability and permanency over continued reunification efforts. If the child is not returned to parental custody pursuant to section 366.22,

subdivision (a)(1), then subdivision (a)(3) directs the court to terminate reunification services and set a section 366.26 hearing. The 18-month review hearing is well past the statutorily-required minimum 12-month reunification period. (See § 361.5, subd. (a)(1)(A).) In this case the parents had already received 12 months of reasonable reunification services. (CT 284, 378.)

By the 18-month review, the statutory scheme no longer requires a finding that reasonable services have been provided to move towards permanency planning. This differs from the six-month review date for children under three years when removed, or the 12-month review date for older children, when the juvenile court shall not set a section 366.26 hearing unless it has been shown by clear and convincing evidence that reasonable services have been provided. (§§ 361.5, subd. (a)(1)(A), (B); 366.21, subd. (g)(4).) In contrast, the part of section 366.22 that applies to all children at the 18-month review hearing, subdivision (a), does not contain the same requirement.

The parallel requirement to find that reasonable services have been provided before advancing to a section 366.26 hearing appears only in section 366.22, subdivision (b)(3)(C). Its relegation to that subsection of subdivision (b) – and its absence from the generally-applicable standards detailed in subdivision (a) – all but establishes that this requirement applies only to the parents described in subdivision (b). The first sentence of section 366.22, subdivision (b) makes clear that, for the subdivision to apply, and for the case to not proceed to a section 366.26 hearing, the case must involve (1) a parent making significant and consistent progress in a court-ordered residential substance abuse treatment program, (2) a parent who was a minor or nonminor dependent parent at the time of the initial hearing making significant and consistent progress in establishing a safe

home for the child's return, or (3) a parent who was recently discharged from incarceration, institutionalization, or the custody of the Department of Homeland Security (DHS) making significant and consistent progress in establishing a safe home for the child's return. (§ 366.22, subd. (b); see also § 361.5, subd. (a)(4)(A) [similar]; *People v. Youngblood* (2001) 91 Cal.App.4th 66, 71-72 [courts "must interpret a statute consistently with the meaning derived from its grammatical structure"].)

Based on the specific language requiring a finding that reasonable services were provided at the six and 12-month reviews, if the Legislature intended to require a finding of reasonable services at the 18-month review, it would have done so. Instead, in 1991 the Legislature amended section 366.22, subdivision (a) such that termination of services was no longer contingent on a finding of reasonable services. (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1016, fn. 9 (*Mark N.*), referencing, Legis. Counsel's Dig., Sen. Bill No. 475, 4 Stats. 1991 (1991-1992 Reg. Sess.) Summary Dig., p. 352 ["This bill would require a court to determine whether reasonable services have been offered or provided to the parent or guardian but would delete that requirement as a precondition for developing a permanent plan"].)

Subdivision (a) provides: "Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, ... guardianship, or continued placement in foster care is the most appropriate plan for the child.... The court shall also order termination of reunification services to the parent or legal guardian.... The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian." (§ 366.22, subd. (a)(3).) Thus, "[a]lthough the juvenile court

still must make a finding regarding whether reasonable services have been offered in such circumstances, its authority to set a section 366.26 hearing ' "is not conditioned on a reasonable services finding." ' [Citation.]" (*N.M. v. Superior Court* (2016) 5 Cal.App.5th 796, 806 *(N.M.)*; *Earl L., supra,* 199 Cal.App.4th at p. 1504 [juvenile court has the option at the 18-month review hearing to continue services, in certain limited circumstances, for individuals specified in section 366.22, subdivision (b)]; *San Joaquin Human Services Agency v. Superior Court* (2014) 227 Cal.App.4th 215, 222–223 & fn. 5 (*San Joaquin*) [lower court lacked the ability to "extend services beyond 18 months, regardless of whether or not reasonable services were provided," because "the statutorily required factors [i.e., those listed in section 366.22, subdivision (b)] were not present."].)

Indeed, Father acknowledges that section 366.22 does not condition setting a section 366.26 hearing on a finding of reasonable services at the 18-month review hearing, except for the parents defined in section 366.22, subdivision (b). He erroneously argues, however, that section 366.22 conflicts with section 361.5, subdivision (a)(4)(A). (Opening Brief 48-51.)

In fact, section 361.5 reflects the same rule as section 366.22: if reasonable services have not been provided by the 12-month review hearing, all parents can get an extension of services up to the 18-month review hearing, but then only the parents with the special circumstances specified in section 366.22, subdivision (b) can get a further extension of services up to a 24-month hearing. Section 361.5, subdivision (a)(3)(A)'s provision for extension of services up to the 18-month review does not contain any limitation as to specific circumstances under which it applies. (§ 361.5, subd. (a)(3)(A).)

//

//

In contrast, section 361.5, subdivision (a)(4)(A)'s provision for extension of services up to the 24-month review limits its applicability to those parents with one of the specific circumstances described in section 366.22, subdivision (b).

> Notwithstanding paragraph (3), court-ordered services may be extended up to a maximum time period not to exceed 24 months after the date the child was originally removed from physical custody of the child's parent or guardian if it is shown, at the hearing held pursuant to subdivision (b) of Section 366.22, that the permanent plan for the child is that the child 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 it is in the child's best interest to have the time period extended and that there is a substantial probability that the child will be returned to the physical custody of the child's parent or guardian who is described in subdivision (b) of Section 366.22 within the extended time period, or that reasonable services have not been provided to the parent or guardian.

(§ 361.5, subd. (a)(4)(A).)

Section 361.5, subdivision (a)(4)(A) was amended together with section 366.22, subdivision (b). Those two statutory sections use similar language, and both were intended by the Legislature to allow additional extension of services only for parents in the specific circumstances enumerated in section 366.22, subdivision (b).

Father erroneously reads section 361.5, subdivision (a)(4)(A)'s final clause ("or that reasonable services have not been provided to the parent or guardian") to argue that the two statutory sections conflict, and that all parents at that late 18-month stage are guaranteed an extension of their reunification services based on a lack of reasonable services (Opening Brief 50-51), as do the reviewing courts in *T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229, 1255-1256 (*T.J.*) and *In re M.F.* (2019) 32 Cal.App.5th

1, 20-23 (*M.F.*). On the contrary, the more logical reading of that subdivision is that all references to the "parent or guardian" are to the aforementioned "parent or guardian who is described in subdivision (b) of Section 366.22." Section 361.5, subdivision (a)(4)(A) only applies on its own terms to a "hearing held pursuant to subdivision (b) of Section 366.22." The Legislature could have included the hearing held pursuant to subdivision (a) of section 366.22 – which applies to the majority of parents at that stage – but did not.

In addition, the clauses of section 361.5, subdivisions (a)(3)(A) and (a)(4)(A) authorizing the extension of services only when the permanent plan at the time is to return the child to parental custody are not rendered ambiguous and self-contradictory by SSA's interpretation, as suggested in *T.J., supra,* 21 Cal.App.5th at pp. 1255-1256. This permanent plan for return language merely recognizes that return would by necessity have to be the court's adopted plan in any case where services are extended, even if the agency has previously recommended or currently recommends to the contrary. Under either subdivision, the parent has necessarily "shown…that the permanent plan…is that the child will be returned…home" if they meet the predicates for that showing; as to the 18-month review hearing, that predicate is meeting the requirements of section 366.22, subdivision (b). (§ 361.5, subd. (a)(4)(A).)

In addition, a related statutory provision lends further credence to SSA's interpretation. The aforenoted 1991 statutory change removing the reasonable services requirement from section 366.22, subdivision (a) was made in conjunction with a change to section 366.26 that, in its current form, prohibits the termination of parental rights if "*[a]t each hearing* at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable

services were not offered or provided." (§ 366.26, subd. (c)(2)(A) (emphasis added); *In re T.M.* (2009) 175 Cal.App.4th 1166, 1172 (*T.M.*); *Mark N., supra,* 60 Cal.App.4th at p. 1016.) This rule "bars termination of parental rights when the parent has never been offered services because the parent's whereabouts were unknown or when the agency has not developed a plan *or offered reasonable services even though the parent was available*." (*T.M., supra,* 175 Cal.App.4th at p. 1173 [emphasis added].)

Thus, termination of parental rights is only barred if the court never found reasonable services were provided, in *any* review period. As section 366.26, subdivision (c)(2)(A) remains in effect, and contemplates the possibility that a family reunification case could reach that late stage without any prior finding of reasonable services, it necessarily follows that section 366.22, subdivision (a) contains no reasonable services requirement (as a section 366.26 hearing could not be ordered from either a six- or 12-month review hearing to a parent receiving such services absent a reasonable services finding). The alternative reading of section 366.22 as to the reasonable services requirement is inconsistent with section 366.26's assumption that a family reunification case can reach that late stage without such a reasonable services finding. (See, e.g., *Gade v. National Solid Wastes Management Ass'n* (1992) 505 U.S. 88, 100 [subdivision read so as not to render other provision superfluous].)

SSA recognizes that section 366.22 and section 361.5 can appear ambiguous. (*M.F., supra,* 32 Cal.App.5th at pp. 20-21; see also *T.J., supra,* 21 Cal.App.5th at pp. 1251-1253.) But this statutory tension is largely resolved by the interpretation explained *supra*. Section 366.22 governs 18-month review hearings, and its language in subdivision (a) directing termination of reunification services and ordering of a section 366.26 hearing controls. Section 366.22, subdivision (b)(3)(C) also applies at the

18-month review hearing, but only to parents in the limited circumstances listed in subdivision (b). Section 361.5, subdivision (a)(4)(A) allows extension of services up to the 24-month review only for parents in the limited circumstances described in section 366.22, subdivision (b), as emphasized by section 361.5, subdivision (a)(4)(A)'s multiple references to that qualification. Thus, at the 18-month review hearing, the statutory time limits for reunification services control regardless of a finding of reasonable services, and the court is not required to extend reunification efforts except to parents in the limited circumstances described in section 366.22, subdivision (b).

C. THE LEGISLATIVE HISTORY SUPPORTS SSA'S INTERPRETATION OF WELFARE AND INSTITUTIONS CODE SECTION 366.22 AND SECTION 361.5

Legislative history reinforces the plain language of section 366.22, subdivision (b). Prior to 1988 there were no limits to the length of reunification services offered to a parent. Subsequently the Legislature, recognizing the transience of childhood, imposed a framework with the delicate balance previously discussed. Juvenile law was "substantially revised" to reflect, among other things, "a legislative policy determination that reunification services should be 'time-limited' in favor of permanency planning at the earliest appropriate time." (*In re Heather B.* (1992) 9 Cal.App.4th 535, 540-541, citing Sen. Select Com. on Children and Youth Rep. on Child Abuse Reporting Laws, Juvenile Court Dependency Statutes and Child Welfare Services (1987–1988 Reg. Sess.) p. ii.)

Following the aforenoted 1991 statutory amendment to section 366.22, "the juvenile court's authority at an 18-month permanency review hearing to set a section 366.26 hearing is not conditioned on a reasonable

services finding. [Citation]." (*N.M., supra,* 5 Cal.App.5th at p. 807.) In 2009, the Legislature narrowly restored a reasonable services requirement to section 366.22, but only as to cases falling under subdivision (b), for parents in limited circumstances. (Legis. Counsel's Dig., Assem. Bill No. 2070, 5 Stats. 2008 (2007–2008 Reg. Sess.) Summary Dig., p. 92 ["[O]nly if the court makes certain findings" can a juvenile court continue a case "for a subsequent permanency review hearing."].) "In 2009, section 366.22 was amended again to allow a juvenile court, at an 18-month permanency review hearing, to grant one further continuance of up to six months, and order additional reunification services for the parent in limited circumstances." (*N.M., supra,* 5 Cal.App.5th at p. 807, citing, Stats. 2008, ch. 482, § 3, pp. 3439–3441; see also *Earl L., supra,* 199 Cal.App.4th at p. 1504; Legis. Counsel's Dig., Assem. Bill No. 2070 (2007-2008 Reg. Sess.) Summary Dig., p. 92 ["This bill would provide additional circumstances in which court-ordered services may be extended…"])

The categories of qualifying circumstances were slightly broadened by subsequent amendments in 2012 and 2015. (Legis. Counsel's Dig., Sen. Bill No. 1064 (2011–2012 Reg. Sess.) Summary Dig., pp. 94-95 [§ 366.22, subd. (b) expanded to also encompass circumstances in which parents on "an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin"] may also receive additional services; Stats. 2012, ch. 845, § 12.2 [enacting Sen. Bill No. 1064]; Legis. Counsel's Dig., Sen. Bill No. 68 (2015–2016 Reg. Sess.) Summary Dig., p. 94 [incorporating "minor" and "nonminor dependent" parents]; Stats. 2015, ch. 284, § 2 [enacting Sen. Bill No. 68].) Like the 2009 amendment, the Legislature authorized the juvenile court to "extend the review hearing periods following consideration of the [] circumstances"

and "particular barriers" only those parents falling within specified subsets often encounter, hindering reunification efforts. (*Ibid*.)

Moreover, the more recent legislative history is significant in what it does *not* say: despite the aforenoted 1991 change that removed the general requirement for a reasonable services finding at the 18-month review, and the fact that no such requirement was added to section 366.22, subdivision (a) so as to unquestionably apply to most parents at that stage, there is no discussion as to the 2009 or subsequent changes intending such a fundamental and generally applicable modification to the nearly two-decade-old rule recognized in *Mark N., supra,* 60 Cal.App.4th at pp. 1015-1016 ("Section 366.22, subdivision (a), does not give the juvenile court the option to continue reunification services nor does it specifically prohibit the court from ordering a section 366.26 hearing even if it finds reasonable reunification services have not been provided to a parent"). (See, e.g., *Chisom v. Roemer* (1991) 501 U.S. 380, 396 [lack of discussion in legislative history relevant as to intent of statutory provision].)

Father argues there is no apparent reason for the typical parent not to receive the same benefit of extended services as the parents described in section 366.22, subdivision (b). (Opening Brief 7-8, 50.) SSA acknowledges that, on the face of the statute, and as noted by the Honorable Justice Goodwin Liu several years ago, "it is unclear why the Legislature would have chosen to provide such protection only to this subset of parents or guardians." (*J.C. v. Superior Court* (Aug. 23, 2017, S243357) Statement Respecting Denial Of Review By Liu, J. [2017 Cal. Lexis 6576, at p. *8].) But, in addition to the textual analysis provided *supra,* there is nothing prohibiting the Legislature from making the policy determination that certain classes of parents should receive different and perhaps more favorable treatment. Indeed, the Legislature has done just that in a context

far more fundamental to a parent's interest in family preservation, as it has deemed certain classes of parents ineligible for reunification services entirely. (See § 361.5, subd. (b).) As discussed *supra*, the Legislature gave parents with the limited circumstances described in section 366.22, subdivision (b) special consideration due to the particular barriers they often encounter, hindering reunification efforts. (See, e.g., Legis. Counsel's Dig., Sen. Bill No. 68 (2015-2016 Reg. Sess.) Summary Dig., p. 94.)

At no time has the Legislature declared that the extended time limit for reunification delineated in section 366.22, subdivision (b) applies to *any* parent when reasonable services have not been offered or provided. This statute has not been ignored by the Legislature, and notwithstanding numerous published cases interpreting this section, no amendments have followed that would again condition the termination of reunification services on a "reasonable services" finding, regardless of a parent's circumstances. (See Stats. 2017, ch. 829 § 8 [most recent amendment to § 366.22, not changing or adding language to subd. (b)].[7]) The Court is not empowered to insert language into a statute, as "[d]oing so would violate the cardinal rule of statutory construction that courts must not add provisions to statutes." (*LGCY Power, LLC v. Superior Ct. of Fresno Cty.* (2022) 75 Cal.App.5th 844, 861.)

//

//

[7] Currently proposed legislation regarding section 366.22 seeks to elevate the standard of proof required for a reasonable services finding. However, the proposed legislation does not recommend reinstating a reasonable services finding as a precondition to developing a permanent plan regardless of a parent's circumstances. (Assem. Bill No. 2833 (2021-2022 Reg. Sess.).)

D. A PARENT WHO DOES NOT RECEIVE REASONABLE SERVICES AS OF THE 18-MONTH REVIEW MAY STILL RECEIVE ADDITIONAL SERVICES UNDER SECTION 352

While section 366.22 does not provide for an automatic extension of reunification services for most parents based on a lack of reasonable services during the prior review period, such a parent is not without a potential remedy. Section 352, subdivision (a) allows the court to continue a hearing upon a showing of good cause. No continuance shall be granted that is contrary to the interest of the child. The court shall give substantial weight to the child's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a child of prolonged temporary placements. (§ 352, subd. (a).)

Section 352 has traditionally been viewed as a mechanism by which the 18-month reunification limit could be extended in special circumstances. (*Mark N., supra,* 60 Cal.App.4th at pp. 1016-1017; see also *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1797-1799; *Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1510 (*Denny H.*).) Reviewing courts have concluded that the 2009 amendments allowing for extensions of reunification services to 24 months to certain parents in substance abuse programs or recently discharged from incarceration or institutionalization (i.e., those in the section 366.22, subdivision (b) specific circumstances) "did not limit the court's discretion to continue an 18-month hearing and extend services under section 352." (*In re J.E.* (2016) 3 Cal.App.5th 557, 564 (*J.E.*).) Father also recognized this option, at trial requesting a continuance under section 352, in the alternative. (RT 147.)

SSA does not quarrel with this line of authority. Section 352 continues to be an "emergency escape valve" in those rare instances in

which the juvenile court determines the best interests of the child would be served by a continuance of the 18-month review hearing. (*In re D.N.* (2020) 56 Cal.App.5th 741, 762 (*D.N.*).)

In contemplating extraordinary extensions of services via section 352, trial courts have been advised to consider "the failure to offer or provide reasonable reunification services; the likelihood of success of further reunification services; whether [the minor's] need for a prompt resolution of her dependency status outweighs any benefit from further reunification services; and any other relevant factors the parties may bring to the court's attention." (*Mark N., supra,* 60 Cal.App.4th at p. 1017.) "A juvenile court has discretion to continue an 18-month hearing pursuant to section 352 when…no reasonable reunification services have ever been offered or provided to a parent." (*Ibid*.)

Therefore, the Legislature designed the statutory scheme so that any parent who did not receive reasonable reunification services between the 12-month and 18-month review hearings could potentially receive an additional services period, if all the various factors considered together weigh in favor of such an extension. Indeed, one such factor will, by definition, support an extension, since the parent will not have received reasonable services between the 12-month and 18-month dates. However, the court also considers countervailing factors, e.g., "[i]t defies common sense to continue reunification efforts for a parent who has made minimal efforts throughout a case." (*Earl L., supra,* 199 Cal.App.4th at p. 1505.)

Section 352 is of particular import in certain special circumstances. As discussed at length *supra*, a finding of reasonable services is not required to set a section 366.26 hearing from an 18-month review hearing when, as was the case here, services had been extended at prior review

hearings. But this rule also presumably applies to cases in which delays necessitate combining one or both of those antecedent hearings with the 18-month hearing under section 366.22. That hearing must occur within 18 months of the child's original removal from the parent's physical custody (§ 366.22, subd. (a)(1)), which coincides with the customary "maximum time period" for reunification services (§ 361.5, subd. (a)(3)(A)). This Court has established that "[d]elays in the timing of one hearing should not affect either the timing of subsequent hearings or the length of services to be ordered." (*Tonya M., supra,* 42 Cal.4th at p. 846.) Accordingly, a prior review hearing can become an 18-month review hearing due to such delays. (*In re M.F.* (2022) 74 Cal.App.5th 86, 104, 109 (*In re M.F.*); see, e.g., *San Joaquin, supra,* 227 Cal.App.4th at pp. 222-223 & fn. 5 contra *Serena M. v Superior Court* (2020) 52 Cal.App.5th 659, 678 [juvenile court directed on remand to provide additional services after faulty reasonable services finding made at combined six-/12-/18-month review hearing].)[8]

In such a combined hearing, while there would be no entitlement to extended services based automatically on a failure to provide reasonable services, the juvenile court would, as at any 18-month review, retain the authority to extend the reunification period under section 352. Indeed, SSA anticipates that a parent would have a particularly strong argument under that section in a case where reunification services have been deemed unreasonable and there has been only one, or perhaps no, prior review hearing. But these outer timeframes, while not an absolute bar to continued

---

[8] While the first sentence of section 366.22, subdivision (a) presupposes that findings have been made at a prior 12-month review hearing, the aforenoted outside timeframes for the 18-month review hearing and for reunification services would presumably allow a juvenile court to "adjust review hearings in the face of statutory cutoffs. [Citations.]" (*In re M.F., supra,* 74 Cal.App.5th at p. 109.)

services, still signal a shift in the juvenile court's authority even in those circumstances vis-à-vis the adequacy of services. Up until the 18-month review hearing, a parent participating in reunification services cannot have those services terminated absent a reasonable services finding. At that critical date, the juvenile court may conclude that further reunification efforts are still warranted for service failures based on the case's circumstances, but is not compelled to further delay permanency for a child who by then has spent a significant portion of childhood awaiting the stability and security of a permanent plan.

Finally, Father contends that the interpretation SSA advocates would give agencies statewide an incentive to provide subpar reunification services. (Opening Brief 57.) Not so. As the juvenile court retains discretion to continue a case under section 352, it is unlikely that agencies would tempt such a continuance intentionally. Moreover, an agency suffers significant financial losses if the court finds it has not provided reasonable services, including at the 18-month review. Such a finding results in the loss of federal funding for the support of the child while in foster care for the length of the case. (See Seiser & Kumli, Cal. Juvenile Court Practice & Procedure (2019) Periodic Review Procedures, § 2.152[4][e], p. 2-581.) For a child under the care of an agency to be eligible for title IV-E funding, section 472(a)(2)(A)(ii) of the Social Security Act (the Act) requires a judicial determination that the title IV-E agency made reasonable efforts of the type described in section 471(a)(15) of the Act. (42 U.S.C. § 672, subds. (a)(1)(A), (a)(2)(A)(ii); 45 CFR 1356.21(b), (d).) Section 471(a)(15) of the Act requires the title IV-E agency to make reasonable efforts to prevent the child's removal from his/her home, to reunify the child and family, and to make and finalize an alternate permanent placement when the child and family cannot be reunited. (42 U.S.C. § 671, subd.

(a)(15)(A)-(C); 45 CFR 1356.21(b); see Seiser & Kumli, Cal. Juvenile Court Practice & Procedure (2019) Periodic Review Procedures, § 2.152[4][a], p. 2-572.)

The Legislature did not have to further incentivize agencies to provide reasonable services by imposing the comparatively minor consequences of requiring an additional services period. Such an extension instead primarily serves to delay the child's permanency, extending the portion of a child's fleeting youth in limbo.[9]

The juvenile court thus has broad discretion under section 352 to consider each case's unique circumstances, and decide whether an extension is equitable and in the child's best interest. The Legislature chose to reserve the blunter remedy of a more automatic extension of services from the 18-month review to the 24-month review hearing for the parents described in section 366.22, subdivision (b) who are not given reasonable services for the prior period. This distinction makes sense: those parents had specific barriers to taking full advantage of services, e.g., incarceration, minority, residential substance abuse treatment. The Legislature reasonably decided that in typical cases any extension of services should be discretionary under section 352, not mandated under section 366.22 without any regard to the case's overall circumstances. The section 352 emergency escape valve thus further ensures fairness to both the child and parents.

---

9 Father argues that when an agency deprives parents of reasonable services, it may unfairly ease its burden of proving detriment at the 18-month review. (Opening Brief 55-56.) On the contrary, this would be the scenario an agency has the greatest financial incentive to avoid. The agency would be increasing the chances that the child would remain in foster care, while simultaneously losing federal funding to pay for maintaining that child in foster care.

E. NOT REQUIRING A FAVORABLE REASONABLE SERVICES FINDING AT THE 18-MONTH REVIEW COMPORTS WITH DUE PROCESS

Father's due process claims both are misplaced as a matter of law and give short shrift to the continuing protection afforded to parents via the juvenile court's discretion under section 352, discussed *supra*. Contrary to Father's claims, due process does not require courts or the Legislature to automatically elevate the rights of parents to raise their children or receive reunification services over the interests of providing for prompt permanent planning for abused or neglected children. (See Opening Brief 46-48.) Family preservation/reunification, albeit extremely important, is only one of the interests that must be balanced.

"In substantive due process law, deprivation of a right is supportable only if the conduct from which the deprivation flows is prescribed by reasonable legislation that is reasonably applied; that is, the law must have a reasonable and substantial relation to the object sought to be attained." (*Marilyn H., supra,* 5 Cal.4th at pp. 306-307.) The Legislature made policy choices that at the point of the 18-month review hearing, the parent's interests in family reunification and reasonable services were superseded by the child's interests in permanency and stability. "The parent is given a reasonable period of time to reunify and, if unsuccessful, the child's interest in permanency and stability takes priority." (*Id.* at p. 309.) "[The Legislature] has also recognized that, in order to prevent children from spending their lives in the uncertainty of foster care, there must be a limitation on the length of time a child has to wait for a parent to become adequate." (*Id.* at p. 308.) Due process is "a flexible concept, whose application depends on the circumstances and the balancing of various factors. [Citations.]" (*Ingrid E. v. Superior Court* (1999) 75 Cal.App.4th 751, 756-757.)

Moreover, although parents have a liberty interest in raising their child, this Court has held that there is no constitutionally protected right to reunification services. "[The mother] assumes, but fails to establish, the foundational premise that she possesses a constitutionally protected liberty interest in the state's providing her with reunification services." (*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 750, superseded by statute on other grounds as stated in *In re Harmony B.* (2005) 125 Cal.App.4th 831, 841-842.) Rather, "[r]eunification services are typically understood as a benefit provided to parents, because services enable them to demonstrate parental fitness and so regain custody of their dependent children. (See, e.g., *In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 475, 73 Cal.Rptr.2d 793 [explaining reunification "services are a 'benefit' " and rejecting an argument that parents have a constitutional entitlement to services].)" (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1228; see also *Joshua M., supra,* 66 Cal.App.4th at p. 476.)

Stated simply, reunification services are a statutory right. (*In re M.S.* (2019) 41 Cal.App.5th 568, 590 (*M.S.*).) Although due process requires a parent be offered reasonable services if reunification services are offered before his or her parental rights may be terminated (*ibid.*), it is within the authority of the Legislature to determine for how long reasonable services need be offered, and under what circumstances services can end.

As explained *supra*, the statutory scheme ensures fairness to both the child and the parents. Parents are provided with a certain amount of required reunification services, but at a point determined appropriate by the Legislature, the child's interests in stability and permanency take priority. If the parents do not fall within a statutory exception, the court has broad discretion under section 352 to consider each case's unique circumstances,

and decide whether an extension is equitable and in the child's best interest. Otherwise, the child deserves a permanent plan.

F. EXISTING AUTHORITY SUPPORTS NOT REQUIRING A FAVORABLE REASONABLE SERVICES FINDING AT THE 18-MONTH REVIEW

The split in authority is not clear cut. Courts have long recognized that under section 366.22, extensions of services at the 18-month review hearing due exclusively to the lack of reasonable services are offered only to parents in the limited circumstances specified in section 366.22, subdivision (b). Otherwise, there is no automatic remedy of extending reunification services on that basis. (*Earl L., supra,* 199 Cal.App.4th at pp. 1504-1505; *San Joaquin, supra,* 227 Cal.App.4th at pp. 222-224; *N.M., supra,* 5 Cal.App.5th at pp. 805-808; *Denny H., supra,* 131 Cal.App.4th at pp. 1511-1512 [if returning a child to his or her parent would create a substantial risk for the child, and subdivision (b) does not apply, the court must set the section 366.26 hearing and terminate services].) This view comports with rulings predating the exceptional circumstances currently included in section 366.22, subdivision (b). (See *Mark N., supra,* 60 Cal.App.4th at pp. 1015-1016 ["Section 366.22, subdivision (a), does not give the juvenile court the option to continue reunification services nor does it specifically prohibit the court from ordering a section 366.26 hearing even if it finds reasonable reunification services have not been provided to a parent"].) Subsequent to the decision now under review by this Court, the Second District, Division 7 agreed with *Michael G.'s* reasoning in *In re Malick T.* (2022) 73 Cal.App.5th 1109, 1123-1124 & n.11.

To the extent that certain cases imply that a finding of reasonable services is required at an 18-month review to advance to a section 366.26

hearing, those cases disregard the limitation made clear in section 366.22, subdivision (b) and section 361.5, subdivision (a)(4)(A), and misconstrue the statute, for the reasons explained at length *supra*. Those cases fail to distinguish adequately between (1) extending services at the 12-month review to a date that is later than 18 months from the date the child was originally taken from the physical custody of his or her parent, and (2) extending services at the 18-month review. Those cases thus mistakenly conflate the findings required for the 12-month and 18-month review hearings, and fail to account for the shifting emphasis on providing stability and permanence at the 18-month review. (See, e.g., *T.J., supra,* 21 Cal.App.5th at pp. 1255-1257; *M.F., supra,* 32 Cal.App.5th at pp. 19-20, 23.)

Along these lines, several cases that at first glance could be seen as indicating a split in authority in fact support the reasoning that the statutory minimum period for reunification services is 12 months, not 18 months, and focus on explaining that reasonable services are required to proceed to a section 366.26 hearing from the 12-month review. The baseline reasoning of those cases does not contradict the statutory interpretation that, at the point of the 18-month review hearing and regardless of prior hearing findings as to reasonable services, parents not described in section 366.22, subdivision (b) who desire additional reunification services must request them through section 352.

T.J., supra, 21 Cal.App.5th 1229 involved a challenge from a continued 12-month review, rather than an 18-month review held under section 366.22 after previous six- and 12-month review hearings. (*Id*. at p. 1237.) Unlike here, where reasonable services were deemed provided up through the 12-month review period (CT 284, 378), the mother in *T.J.* was denied reasonable services for the "statutorily required minimum period" of

12 months. (*T.J., supra,* 21 Cal.App.5th at p. 1256.) The *T.J.* court faced the problem that, by the time of its decision, the children had been out of the mother's custody for more than 18 months. (*Id*. at p. 1251.) The *T.J.* court concluded that an extended period of services must be ordered on review, even if that meant services would be offered beyond the 18-month mark specified in section 361.5, subdivision (a)(3)(A). (*Ibid*.) The *T.J.* court distinguished *Earl L., supra,* 199 Cal.App.4th 1490; *N.M., supra,* 5 Cal.App.5th 796; and *San Joaquin, supra,* 227 Cal.App.4th 215, in that "the issue in those cases was not whether the requisite minimum period of services had been offered or provided. Rather, the parents there sought optional, additional periods of services." (*T.J., supra,* 21 Cal.App.5th at p. 1255.) The *T.J.* court emphasized that an extension was allowed despite the statutory limitations, because the mother had not received reasonable services as of the 12-month review. (*Id*. at pp. 1256-1257.)

M.F., supra, 32 Cal.App.5th 1 similarly involved a challenge from a 12-month review, rather than an 18-month review. (*Id*. at pp. 10-11.) The juvenile court found that reasonable services were not provided to the father.[10] (*Id*. at p. 12.) Although the 18-month review date would be in 16 days, the juvenile court set a review hearing for six months thereafter. (*Id*. at p. 12.) In holding that the juvenile court may extend services on a finding that reasonable services were not offered or provided to a parent, even if it means that services will be offered beyond the 18-month review date, the reviewing court in *M.F.* relied on the reasoning in *T.J.* that the failure to provide reasonable services for the requisite statutory minimum period justifies granting an extension of services. (*Id*. at pp. 21-23.)

---

[10] This case involved a child under three years old at the time of removal, and the opinion does not state whether the court found reasonable services had been provided at the six-month review hearing. (*Id*. at pp. 8-9.)

Although *M.F.* does contain language stating that that a section 366.26 hearing cannot be set without a finding of reasonable services, that reviewing court was ruling on whether at the 12-month hearing services can be extended beyond the date when the 18 month review hearing should take place, not whether the statutory sections governing the 18-month review hearing prevent setting a section 366.26 hearing absent a finding of reasonable services. (*M.F., supra,* 32 Cal.App.5th at pp. 23-24.) Indeed, the *M.F.* court noted that the next hearing would be a combined 18-month and 24-month review hearing. (*Id*. at p. 24.)

M.S., supra, 41 Cal.App.5th 568 similarly focuses on the parent's entitlement to the statutory minimum period of services. This case did not involve a question of whether services provided were reasonable. Rather, the mother appealed an order denying her reunification services altogether based on the juvenile court's finding that her whereabouts were unknown pursuant to section 361.5, subdivision (b)(1). The mother also appealed the court's subsequent order at the section 366.26 hearing terminating her parental rights. (*M.S., supra,* 41 Cal.App.5th at p. 572.) The reviewing court concluded there was insufficient evidence to support a finding that at the time of the jurisdiction and disposition hearing the mother's whereabouts were unknown. (*Id*. at pp. 581-586.) It concluded that on remand she must be provided with appropriate reunification services for at least the statutory minimum period, even though by the time of the appellate court's decision it was after the maximum statutory period for reunification services. (*Id*. at pp. 594-596.)

J.E., supra, 3 Cal.App.5th at pp. 564-567 and *D.N., supra,* 56 Cal.App.5th at pp. 756, 762-763 reaffirm that, under section 352, services can be extended beyond the 18-month review for extraordinary circumstances which may include a lack of reasonable services. These

cases thus confirm there are two limited avenues for extending services at the 18-month review -- i.e., section 366.22, subdivision (b) for parents in specific, enumerated circumstances, and section 352 for all parents.

Despite some tension in the statutory scheme, and the cases Father claims relax the standard, in over 30 years the Legislature has still not required a reasonable services finding to terminate reunification services at the 18-month review hearing for parents not in the limited circumstances specified in section 366.22, subdivision (b). While Father's arguments as to the benefits of extending that requirement to all parents are by no means trivial, this is simply a choice the Legislature has declined to make.

V. CONCLUSION

The applicable statutes do not prohibit the court from terminating reunification services and setting a section 366.26 hearing at the 18-month review hearing despite reasonable reunification services not being provided during the most recent review period. Rather, the statute allows extension of services only for parents in the limited circumstances specified in section 366.22, subdivision (b), or if the parents obtain a discretionary continuance under section 352. SSA respectfully urges this Court to confirm SSA's interpretation, which is consistent with the shifting balance of the fundamental goals of dependency as the case progresses. This interpretation also ensures fairness to both the child and the parents, as the court has broad discretion to consider each case's unique circumstances, and decide whether an extension is equitable and in the child's best interest.

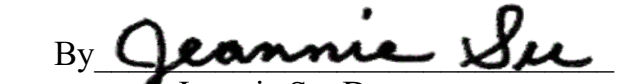
The parents in this case had ample opportunity to take advantage of two separate statutory periods of reasonable services, yet largely failed to do so. The statutory scheme gives a parent a healthy amount of required

reunification services before its focus shifts to the child's need for a stable permanent home. The Legislature has determined that, by the time of an 18-month review hearing, the child has spent enough time waiting on tenterhooks, and only under limited specific circumstances should that period of uncertainty be extended. SSA respectfully urges this Court to honor the Legislature's difficult policy choices, and affirm the judgment of the Court of Appeal.

Dated: April 21, 2022

Respectfully submitted,

LEON J. PAGE,
COUNTY COUNSEL,
KAREN L. CHRISTENSEN,
SUPERVISING DEPUTY,
JEANNIE SU, SENIOR DEPUTY, and
AURELIO TORRE, SENIOR DEPUTY

By 
Jeannie Su, Deputy

Attorneys for Real Party in Interest,
Orange County Social Services Agency

Word Count Certification
(Cal. Rules of Court, rule 8.204(c)(1))

The text of this brief consists of approximately 13,364 words as counted by the Microsoft Word processing program used to prepare this brief.

Dated: April 21, 2022

LEON J. PAGE,
COUNTY COUNSEL,
KAREN L. CHRISTENSEN,
SUPERVISING DEPUTY, and
JEANNIE SU, SENIOR DEPUTY

By 
Jeannie Su, Deputy

Attorneys for Respondent,
Orange County Social Services Agency

PROOF OF SERVICE

I do hereby declare that I am a citizen of the United States employed in the County of Orange, over 18 years old and that my business address is POB 119, Santa Ana, California; and my e-mail address is paul.tu@coco.ocgov.com. I am not a party to the within action.

On **April 21, 2022**, I e-filed the foregoing **ANSWER BRIEF ON THE MERITS** through ImageSoft's TrueFiling system in the Supreme Court of the State of California, with service on the parties to this action in the following manner:

[X] (BY ELECTRONIC TRANSMISSION (EMAIL)) Email transmission by ImageSoft's TrueFiling system in the Court of Appeal, Fourth District, Division Three to the parties in this action listed below.

[X] (BY U.S. MAIL) I placed a sealed envelope(s) addressed as shown below for collection and mailing at Santa Ana, California, following our ordinary business practices. I am readily familiar with this office's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED April 21, 2022, in Santa Ana, California.

Paul S. Tu

Paul S. Tu

NAME AND ADDRESS TO WHOM SERVICE WAS MADE

SEE ATTACHED SERVICE LIST

SERVICE LIST

Office of the Court Clerk
(Hon. Antony C. Ufland, Judge)
Appellate Div. Juvenile
341 The City Drive, South
Orange, CA 92868
Trial Court

Clerk, California Court of Appeal
Fourth Appellate District,
Division Three
601 W. Santa Ana Blvd.
Santa Ana, CA 92701
Court of Appeal

Orange County Public Defender
brian.okamoto@pubdef.ocgov.com
Counsel for Petitioner, Michael G.

Donna P. Chirco
sdpc10@yahoo.com
Appellate Counsel for Petitioner, K.G.

Juvenile Defenders
juveniledefenders@gmail.com
Appellate Counsel for Petitioner, K.G.

Law Offices of Harold LaFlamme
hlaflamme@gmail.com
Counsel for Minor, A.G.

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **G. (MICHAEL) v. S.C. ORANGE COUNTY SOCIAL SERVICES AGENCY**
Case Number: **S271809**
Lower Court Case Number: **G060407**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **jeannie.su@coco.ocgov.com**

3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	S271809-MichaelG-Answer Brief
REQUEST FOR JUDICIAL NOTICE	S271809-MichaelG-RJN

Service Recipients:

Person Served	Email Address	Type	Date / Time
Jeannie Su Office of the County Counsel 207005	jeannie.su@coco.ocgov.com	e-Serve	4/21/2022 11:48:21 AM
Harold Laflamme Court Added	hlaflamme@gmail.com	e-Serve	4/21/2022 11:48:21 AM
Donna Chirco Juvenile Defenders 199841	sdpc10@yahoo.com	e-Serve	4/21/2022 11:48:21 AM
Brian Okamoto Orange County Public Defender 217338	Brian.Okamoto@pubdef.ocgov.com	e-Serve	4/21/2022 11:48:21 AM
Juvenile Defenders 183565	juveniledefenders@gmail.com	e-Serve	4/21/2022 11:48:21 AM
County Counsel, County of Orange 654321	OCCoCo.Appeals-Service@coco.ocgov.com	e-Serve	4/21/2022 11:48:21 AM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

4/21/2022
Date

/s/Paul Tu
Signature

SU, JEANNIE (207005)

Last Name, First Name (PNum)

Orange County Counsel

Law Firm