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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

DAMIAN T.,
Petitioner,

v.

THE SUPERIOR COURT OF SOLANO COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

A114092

**(Solano County
Super. Ct. No. J036429)**

THE COURT:*

In this writ proceeding, petitioner Damian T. challenges the juvenile court’s finding that he is unfit for treatment under the juvenile court law. (Welf. & Inst. Code, § 707, subds. (b), (c); Cal. Rules of Court, rule 1483.) The Attorney General’s response to the petition concedes that “a peremptory writ should issue in the first instance directing the juvenile court to reconsider petitioner’s fitness for juvenile adjudication,” since the court erred in concluding that Welfare and Institutions Code, section 1731 deprived it of

* Before Jones, P.J., Gemello, J. and Reardon, J. (Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution).

the ability to commit petitioner to the California Youth Authority, and this erroneous conclusion may have contributed to the court's ultimate finding.

Given the Attorney General's concession, and in accordance with our notification to the parties that we might do so, we will direct issuance of a peremptory writ in the first instance. (See *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) Petitioner's right to relief is obvious, no useful purpose would be served by issuance of an alternative writ, further briefing and oral argument, and the petition is unusually urgent in that the juvenile court's finding has led to the commencement of a criminal proceeding against petitioner in adult court. (*Ng v. Superior Court* (1992) 4 Cal.4th 29, 35; see also *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1241.)

Let a peremptory writ of mandate issue commanding respondent superior court to set aside and vacate its May 19, 2006 order finding petitioner unfit for treatment under the juvenile court law, reconsider that finding in light of this opinion, and thereafter issue a new and different order ruling on the question of whether petitioner is a fit and proper subject to be dealt with under the juvenile court law. This decision shall be final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Should the parties so stipulate in writing, the remittitur shall issue immediately. (Cal. Rules of Court, rule 26(c)(1).) This court's previous stay order shall dissolve upon respondent superior court's compliance with the peremptory writ.