

# Question

1 NO. 25-0367 IN THE SUPREME COURT OF TEXAS IN RE: CHARLES DUSTIN MYERS § § § § § MOTION FOR REHEARING § § § § § TO THE HONORABLE SUPREME COURT OF TEXAS: Relator CHARLES DUSTIN MYERS respectfully submits this motion for rehearing in regarding cause number 25-0367 before this Honorable Court. There exist five judges involved in the same family law matter before this Court, none of which have provided a response, and the case remains inactive in the trial court below. Because there has been no response, Relator will file a motion similar to this in case numbers 25-0361, 25-0378, 25-0426, and 25-0458 to incorporate potential counter arguments and why they fail. This Court should grant mandamus relief for FILED 25-0367 7/11/2025 10:34 AM tex-103019239 SUPREME COURT OF TEXAS BLAKE A. HAWTHORNE, CLERK 2 cause number 25-0367, and in support of this request, Relator Charles Dustin Myers shows the following: I. INTRODUCTION 1. The Texas Supreme Court must grant rehearing because the trial court's complete refusal to hear a properly filed emergency TRO constitutes an abuse of discretion that left the relator without adequate appellate remedy, and resulted in preventable harm to the child that exemplifies the type of exceptional circumstance warranting extraordinary relief. II. Summary 2. Relator's mandamus petition presents a compelling case for rehearing based on established legal principles governing mandamus relief in Texas. The trial court's outright refusal to hear his properly filed emergency TRO regarding his children's welfare constitutes a clear failure to perform a ministerial duty—the obligation to consider and rule on properly filed motions. This judicial inaction violates fundamental due process protections and parental rights, which are elevated constitutional interests deserving heightened protection. 3. Beyond the procedural aspects, this case highlights a substantive concern that warrants the Supreme Court's attention: the preventable harm to a child that materialized precisely as the relator warned. The dental emergency suffered by the youngest child serves as concrete evidence of the inadequacy of any remedy by 3 appeal, as appellate review cannot undo harm that has already occurred to a vulnerable child. The case raises systemic concerns about judicial accountability and public confidence in the courts when trial courts refuse to perform basic ministerial duties and appellate courts deny relief without explanation, particularly in matters involving fundamental rights and child welfare. III. Background and Relevant Law 4. The legal framework for mandamus relief in Texas is well-established and provides the foundation for understanding why the Supreme Court should grant rehearing in this case. A. Standard for Mandamus Relief 5. Mandamus is an extraordinary remedy available only in limited circumstances. For a relator to be entitled to mandamus relief, two requirements must be satisfied: (1) the trial court clearly abused its discretion and (2) the relator has no adequate remedy on appeal. 6. The Texas Supreme Court has explained that mandamus is reserved for situations where a trial court clearly abuses its discretion and no adequate remedy by appeal exists. In re Prudential Ins. Co. of Am., 148 S.W.3d 124, 135-36 (Tex. 2004) ("An appellate remedy is 'adequate' when any benefits to mandamus review are outweighed by the detriments. When the benefits

outweigh the detriments, 4 appellate courts must consider whether the appellate remedy is adequate." ). This standard reflects the exceptional nature of mandamus relief. 7. When it comes to a trial court's duty to rule on motions, Texas courts have consistently held that "when a motion is properly filed and pending before a trial court, the act of considering and ruling upon that motion is a ministerial duty." In re Layton, 257 S.W.3d 794, 795 (Tex. App.—Amarillo 2008, orig. proceeding). Thus, mandamus is the appropriate mechanism to compel a trial court to fulfill this fundamental duty. B. Parental Rights as Fundamental Rights 8. The U.S. Supreme Court has recognized that among the most fundamental liberty interests protected by the Constitution is the right of parents to direct the upbringing and care of their children. Troxel v. Granville, 530 U.S. 57, 65 (2000) (recognizing that "the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court"). This fundamental right is directly implicated in the present case. 9. Texas law mirrors this constitutional protection, recognizing in Tex. Fam. Code § 153.001 that it is "the public policy of this state to: assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child; provide a safe, stable, and nonviolent environment for the child; and encourage parents to share in the rights and duties 5 of raising their child after the parents have separated or dissolved their marriage." Furthermore, Tex. Fam. Code § 153.002 mandates that "the best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child." C. Due Process Requirements 10. The Due Process Clause of the Fourteenth Amendment forbids any state from depriving a person of life, liberty, or property without due process of law. Reno v. Flores, 507 U.S. 292, 301-02 (1993) ("The Fifth Amendment's guarantee of 'due process of law' includes a substantive component, which forbids the government to infringe certain 'fundamental' liberty interests... no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest."). This constitutional guarantee is particularly relevant in family law matters, where fundamental liberty interests in parental rights are at stake. IV. Analysis D. Trial Court's Refusal to Hear Emergency Motion Constitutes Abuse of Discretion 11. The Texas Supreme Court should grant rehearing because the trial court's refusal to hear Relator's emergency TRO on March 28, 2025, constitutes a clear abuse of discretion. By turning Relator away from the courtroom and refusing even 6 to schedule a hearing on his properly filed motion alleging imminent risk to his child, the court failed to perform a ministerial duty. 12. In Barnes v. State, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992), the court confirmed that trial courts have a ministerial duty to consider and rule on properly filed motions. The court in In re Layton, 257 S.W.3d 794, 795 (Tex. App.—Amarillo 2008, orig. proceeding) further clarified that "when a motion is properly filed and pending before a trial court, the act of considering and ruling upon that motion is a ministerial duty." The trial court's outright refusal to even consider Relator's emergency TRO represents a clear departure from this established duty. 13. This is not a case where the trial court merely delayed ruling or exercised discretion in scheduling. Rather, the record shows that the Respondent Judge completely refused to hear the motion, effectively closing the courthouse doors to Relator on a matter involving child safety.

Such a refusal is precisely the type of clear abuse of discretion that warrants mandamus relief. E. No Adequate Remedy by Appeal 14. The second requirement for mandamus relief—the absence of an adequate remedy by appeal—is clearly satisfied in this case. Texas courts have consistently recognized that temporary orders in family law cases are not appealable, making mandamus the appropriate vehicle for review. *In re S.B. 7* ("Because a trial court's temporary orders are not appealable, mandamus is an appropriate means to challenge them."). 15. Moreover, the inadequacy of appeal is particularly evident here because the harm to the child that Relator sought to prevent through his emergency TRO has already materialized—the youngest child suffered a preventable dental emergency that required intervention. An appeal after final judgment cannot undo this harm or rectify the denial of process that Relator experienced when facing an immediate threat to his child's well-being. 16. The Texas Supreme Court has recognized that mandamus may be appropriate when judicial inaction leads to irreparable harm, particularly to a child. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 136 (Tex. 2004). In such cases, the remedy by appeal is inherently inadequate because it cannot prevent or undo harm that has already occurred. F. Protection of Fundamental Parental Rights 17. The Texas Supreme Court should grant rehearing because this case involves fundamental parental rights that deserve heightened protection. The U.S. Supreme Court in *Troxel v. Granville*, 530 U.S. 57, 65 (2000) recognized that parents have a fundamental right to direct the upbringing and care of their children. When a court action—or inaction—threatens this fundamental right, close scrutiny is warranted. 8 18. In *In re C.J.C.*, 603 S.W.3d 804 (Tex. 2020), this Court emphasized the importance of protecting parental rights, recognizing a statutory presumption in favor of parents in custody determinations. The court stated that "when nonparents seek court-ordered custody of a child subject to an existing order, under which one or both fit parents were appointed managing conservators, that parent or parents retain the presumption that protects their fundamental right to determine their child's best interest." 19. Similarly, in *In re B.F.*, No. 02-20-00283-CV (Tex. App. Oct 15, 2020), the court granted mandamus relief when a trial court's temporary order infringed on a father's parental rights. The court cited the Texas Supreme Court's decision in *In re C.J.C.* and noted that "the United States Constitution 'protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.'" G. Judicial Accountability and Public Confidence 20. Beyond the specific issues in this case, the Texas Supreme Court should grant rehearing to address broader concerns about judicial accountability and public confidence in the courts. The petition references a 2020 analysis by the Texas Home School Coalition that found courts "failed to protect parents' constitutional rights more than 78% of the time" in certain contested suits 9 involving parental-presumption challenges. Such patterns of perceived overreach can erode public trust in the judiciary. 21. The case of *Stary v. Ethridge*, 695 S.W.3d 417 (Tex. App.—Houston [1st Dist.] 2022), which this Court agreed to review, highlights similar due process concerns in family law proceedings. Like *Stary*, the present case raises questions about procedural safeguards in matters affecting parental rights and child welfare. 22. The perfunctory denial of mandamus relief by the Second Court of Appeals, without explanation, further compounds concerns about judicial accountability. When courts at multiple levels fail to address a clear

dereliction of ministerial duty, it creates an accountability vacuum that undermines public confidence in the judiciary. The Texas Supreme Court, as the state's highest civil court, has a responsibility to ensure that lower courts fulfill their basic duties, especially in cases involving fundamental rights and child welfare. H. The Open Courts Provision 23. The trial court's refusal to hear Relator's emergency motion potentially violates the Texas Constitution's Open Courts Provision, which guarantees access to the courts for redress of injuries. Tex. Const. art. I, § 13. This provision requires that the courts be open to all persons for the redress of their grievances. When a trial court refuses even to hear a properly filed emergency motion concerning child 10 safety, it effectively denies access to justice in violation of this constitutional guarantee. 24. In *Whitworth v. Whitworth*, 222 S.W.3d 616 (Tex. App. 2007), the court emphasized that a judge who issues an order transferring possession and temporary custody of a child without making the necessary factual findings acts without authority, rendering the orders invalid. Similarly, a judge who refuses even to consider a properly filed emergency motion regarding child welfare abdicates a fundamental judicial responsibility. I. Best Interest of the Child 25. The Texas Family Code mandates that "the best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child." Tex. Fam. Code § 153.002. By refusing to hear Relator's emergency TRO, the trial court failed to consider how its inaction might affect the best interest of the child. 26. The preventable dental emergency suffered by the youngest child demonstrates that the trial court's refusal to act was contrary to the child's best interest. This Court should grant rehearing to ensure that trial courts fulfill their statutory duty to prioritize the best interest of the child in all decisions affecting child welfare. 11 J. Differential Treatment and Denial of Equal Protection 27. The petition suggests that the trial court's refusal to hear Relator's emergency TRO stands in stark contrast to its apparent swiftness in acting upon the Real Party in Interest's initial application, which Relator contends was based on false pretenses. This differential treatment raises concerns about equal protection under the law. 28. The court's acceptance of the initial emergency filing, which resulted in Relator being removed from his home and having access to his children restricted, compared with its refusal to even entertain Relator's subsequent emergency motion, suggests arbitrary decision-making that contradicts principles of fairness and due process. K. Exceptional Circumstances Warranting Extraordinary Relief 29. The combination of factors in this case—the trial court's clear failure to perform a ministerial duty, the absence of an adequate remedy by appeal, the fundamental nature of the parental rights at stake, and the preventable harm that resulted to a child—creates exceptional circumstances that warrant the extraordinary remedy of mandamus. 30. This Court has recognized that mandamus may be appropriate in exceptional cases where the benefits of mandamus review outweigh the detriments. In *re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004). This case 12 presents such exceptional circumstances given the clear abuse of discretion, the absence of appellate remedy, and the importance of the rights at stake. 31. In *In re R.G.*, 06-24-00035-CV (Tex. App. Sep 11, 2024), the court recognized that "the Supreme Court of the United States and the Supreme Court of Texas have recognized that involuntary termination of parental rights involves fundamental constitutional rights. As a result, when the Department

seeks to permanently terminate the relationship between a parent and a child, it must observe fundamentally fair procedures." This principle applies with equal force here, where the trial court's refusal to hear an emergency motion involving child welfare failed to observe fundamentally fair procedures. V. The Role of the Texas Supreme Court 32. As the highest civil court in Texas, the Supreme Court has a responsibility to ensure that the judicial system functions properly and that fundamental rights are protected. When lower courts fail to perform their basic ministerial duties and appellate courts deny relief without explanation, the Supreme Court must step in to maintain the integrity of the judicial system. 33. The Government Code explicitly empowers the Supreme Court to issue writs of mandamus against district judges. Tex. Gov't. Code § 22.002 provides that "the supreme court or a justice of the supreme court may issue writs of procedendo and certiorari and all writs of quo warranto and mandamus agreeable to the 13 principles of law regulating those writs, against a statutory county court judge, a statutory probate court judge, a district judge, a court of appeals or a justice of a court of appeals, or any officer of state government except the governor, the court of criminal appeals, or a judge of the court of criminal appeals." 34. This grant of authority reflects the Supreme Court's role as the ultimate guardian of legal rights in the state's civil justice system. By granting rehearing in this case, the Court would fulfill this important role and provide guidance to lower courts on their obligation to hear and rule on properly filed emergency motions, particularly those involving child welfare. VI. Conclusion 35. This Court should grant rehearing because this case presents exceptional circumstances that warrant extraordinary relief. The trial court's refusal to hear Relator's properly filed emergency TRO constitutes a clear abuse of discretion that left Relator without an adequate remedy by appeal and resulted in preventable harm to a child. 36. The case implicates fundamental constitutional rights, including parental rights and due process, which deserve heightened protection. It also raises broader concerns about judicial accountability and public confidence in the courts when judges refuse to perform their basic ministerial duties and appellate courts deny relief without explanation. 14 37. By granting rehearing, the Court would not only address the specific injustice suffered by Relator and his child but also reaffirm important principles: that Texas courts must provide a meaningful forum for litigants, especially in emergencies involving child safety; that judges must perform their ministerial duties without bias or arbitrary refusal; and that the judicial system as a whole must be accountable to the people it serves. 38. The preventable harm that has already occurred to the child in this case underscores the inadequacy of any remedy other than mandamus. The Supreme Court should therefore grant rehearing to ensure that justice is served and that similar harms are prevented in the future. VII. PRAYER FOR RELIEF WHEREFORE, PREMISES CONSIDERED, Relator Charles Dustin Myers respectfully prays that this Honorable Court: 1. Grant this Motion for Rehearing in cause number 25-0367; 2. Withdraw its prior denial of the original petition for writ of mandamus; 3. Issue a writ of mandamus compelling the trial court to hear and rule on Relator's properly filed Emergency Temporary Restraining Order, as required by law; 4. Declare that the trial court's refusal to hear the emergency motion filed on March 28, 2025, constitutes a clear abuse of discretion and a violation of 15 Relator's fundamental rights under both the Texas Constitution and the United States

Constitution; 5. Hold that the trial court's inaction deprived Relator of due process, violated the Open Courts provision of the Texas Constitution, and failed to prioritize the best interest of the child as required under Tex. Fam. Code § 153.002; 6. Recognize that no adequate remedy exists by appeal, and that mandamus relief is the only appropriate means of redress under these circumstances; 7. Provide such other and further relief at law or in equity as this Court deems just and proper, including the clarification of lower courts' ministerial obligations to hear emergency matters affecting the welfare of a child. Respectfully submitted, /s/ Charles Dustin Myers CHARLES DUSTIN MYERS Pro Se Relator chuckdustin12@gmail.com 817-546-3693 Dated: July 11, 2025 Automated Certificate of eService This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below: Envelope ID: 103019239 Filing Code Description: Motion for Rehearing Filing Description: Motion for Rehearing Status as of 7/11/2025 10:37 AM CST Case Contacts Name CHARLES DMYERS MORGAN MICHELLEMYERS Honorable Kate Stone COOPER CARTER BarNumber Email CHUCKDUSTIN12@GMAIL.COM MORGANMW02@GMAIL.COM adwierzicki@tarrantcountytexas.gov COOPERCARTER@MAJADMIN.COM TimestampSubmitted 7/11/2025 10:34:55 AM 7/11/2025 10:34:55 AM 7/11/2025 10:34:55 AM 7/11/2025 10:34:55 AM Status SENT SENT SENT SENT 1 NO. 25-0367 IN THE SUPREME COURT OF TEXAS IN RE: CHARLES DUSTIN MYERS § § § § § MOTION FOR REHEARING § § § § § TO THE HONORABLE SUPREME COURT OF TEXAS: Relator CHARLES DUSTIN MYERS respectfully submits this motion for rehearing in regarding cause number 25-0367 before this Honorable Court. There exist five judges involved in the same family law matter before this Court, none of which have provided a response, and the case remains inactive in the trial court below. Because there has been no response, Relator will file a motion similar to this in case numbers 25-0361, 25-0378, 25-0426, and 25-0458 to incorporate potential counter arguments and why they fail. This Court should grant mandamus relief for FILED 25-0367 7/11/2025 10:34 AM tex-103019239 SUPREME COURT OF TEXAS BLAKE A. HAWTHORNE, CLERK 2 cause number 25-0367, and in support of this request, Relator Charles Dustin Myers shows the following: I. INTRODUCTION 1. The Texas Supreme Court must grant rehearing because the trial court's complete refusal to hear a properly filed emergency TRO constitutes an abuse of discretion that left the relator without adequate appellate remedy, and resulted in preventable harm to the child that exemplifies the type of exceptional circumstance warranting extraordinary relief. II. Summary 2. Relator's mandamus petition presents a compelling case for rehearing based on established legal principles governing mandamus relief in Texas. The trial court's outright refusal to hear his properly filed emergency TRO regarding his children's welfare constitutes a clear failure to perform a ministerial duty—the obligation to consider and rule on properly filed motions. This judicial inaction violates fundamental due process protections and parental rights, which are elevated constitutional interests deserving heightened protection. 3. Beyond the procedural aspects, this case highlights a substantive concern that warrants the Supreme Court's attention: the preventable harm to a child that materialized precisely as the relator warned. The dental emergency suffered by the youngest child serves as concrete evidence of the inadequacy of any remedy by 3 appeal, as appellate review cannot undo

harm that has already occurred to a vulnerable child. The case raises systemic concerns about judicial accountability and public confidence in the courts when trial courts refuse to perform basic ministerial duties and appellate courts deny relief without explanation, particularly in matters involving fundamental rights and child welfare.

III. Background and Relevant Law

4. The legal framework for mandamus relief in Texas is well-established and provides the foundation for understanding why the Supreme Court should grant rehearing in this case.

A. Standard for Mandamus Relief

5. Mandamus is an extraordinary remedy available only in limited circumstances. For a relator to be entitled to mandamus relief, two requirements must be satisfied: (1) the trial court clearly abused its discretion and (2) the relator has no adequate remedy on appeal.

6. The Texas Supreme Court has explained that mandamus is reserved for situations where a trial court clearly abuses its discretion and no adequate remedy by appeal exists. In *re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004) ("An appellate remedy is 'adequate' when any benefits to mandamus review are outweighed by the detriments. When the benefits outweigh the detriments, 4 appellate courts must consider whether the appellate remedy is adequate."). This standard reflects the exceptional nature of mandamus relief.

7. When it comes to a trial court's duty to rule on motions, Texas courts have consistently held that "when a motion is properly filed and pending before a trial court, the act of considering and ruling upon that motion is a ministerial duty." In *re Layton*, 257 S.W.3d 794, 795 (Tex. App.—Amarillo 2008, orig. proceeding). Thus, mandamus is the appropriate mechanism to compel a trial court to fulfill this fundamental duty.

B. Parental Rights as Fundamental Rights

8. The U.S. Supreme Court has recognized that among the most fundamental liberty interests protected by the Constitution is the right of parents to direct the upbringing and care of their children. *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (recognizing that "the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court"). This fundamental right is directly implicated in the present case.

9. Texas law mirrors this constitutional protection, recognizing in Tex. Fam. Code § 153.001 that it is "the public policy of this state to: assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child; provide a safe, stable, and nonviolent environment for the child; and encourage parents to share in the rights and duties of raising their child after the parents have separated or dissolved their marriage." Furthermore, Tex. Fam. Code § 153.002 mandates that "the best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child."

C. Due Process Requirements

10. The Due Process Clause of the Fourteenth Amendment forbids any state from depriving a person of life, liberty, or property without due process of law. *Reno v. Flores*, 507 U.S. 292, 301-02 (1993) ("The Fifth Amendment's guarantee of 'due process of law' includes a substantive component, which forbids the government to infringe certain 'fundamental' liberty interests... no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest."). This constitutional guarantee is particularly relevant in family law matters, where fundamental liberty interests in parental rights are at stake.

IV. Analysis

D. Trial Court's Refusal to Hear Emergency Motion Constitutes Abuse of

Discretion 11. The Texas Supreme Court should grant rehearing because the trial court's refusal to hear Relator's emergency TRO on March 28, 2025, constitutes a clear abuse of discretion. By turning Relator away from the courtroom and refusing even to schedule a hearing on his properly filed motion alleging imminent risk to his child, the court failed to perform a ministerial duty. 12. In *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992), the court confirmed that trial courts have a ministerial duty to consider and rule on properly filed motions. The court in *In re Layton*, 257 S.W.3d 794, 795 (Tex. App.—Amarillo 2008, orig. proceeding) further clarified that "when a motion is properly filed and pending before a trial court, the act of considering and ruling upon that motion is a ministerial duty." The trial court's outright refusal to even consider Relator's emergency TRO represents a clear departure from this established duty. 13. This is not a case where the trial court merely delayed ruling or exercised discretion in scheduling. Rather, the record shows that the Respondent Judge completely refused to hear the motion, effectively closing the courthouse doors to Relator on a matter involving child safety. Such a refusal is precisely the type of clear abuse of discretion that warrants mandamus relief. E. No Adequate Remedy by Appeal 14. The second requirement for mandamus relief—the absence of an adequate remedy by appeal—is clearly satisfied in this case. Texas courts have consistently recognized that temporary orders in family law cases are not appealable, making mandamus the appropriate vehicle for review. In *re S.B. 7* ("Because a trial court's temporary orders are not appealable, mandamus is an appropriate means to challenge them."). 15. Moreover, the inadequacy of appeal is particularly evident here because the harm to the child that Relator sought to prevent through his emergency TRO has already materialized—the youngest child suffered a preventable dental emergency that required intervention. An appeal after final judgment cannot undo this harm or rectify the denial of process that Relator experienced when facing an immediate threat to his child's well-being. 16. The Texas Supreme Court has recognized that mandamus may be appropriate when judicial inaction leads to irreparable harm, particularly to a child. In *re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 136 (Tex. 2004). In such cases, the remedy by appeal is inherently inadequate because it cannot prevent or undo harm that has already occurred. F. Protection of Fundamental Parental Rights 17. The Texas Supreme Court should grant rehearing because this case involves fundamental parental rights that deserve heightened protection. The U.S. Supreme Court in *Troxel v. Granville*, 530 U.S. 57, 65 (2000) recognized that parents have a fundamental right to direct the upbringing and care of their children. When a court action—or inaction—threatens this fundamental right, close scrutiny is warranted. 18. In *re C.J.C.*, 603 S.W.3d 804 (Tex. 2020), this Court emphasized the importance of protecting parental rights, recognizing a statutory presumption in favor of parents in custody determinations. The court stated that "when nonparents seek court-ordered custody of a child subject to an existing order, under which one or both fit parents were appointed managing conservators, that parent or parents retain the presumption that protects their fundamental right to determine their child's best interest." 19. Similarly, in *In re B.F.*, No. 02-20-00283-CV (Tex. App. Oct 15, 2020), the court granted mandamus relief when a trial court's temporary order infringed on a father's parental rights. The court cited the Texas Supreme Court's decision in *In re C.J.C.* and noted that "the



United States Constitution 'protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.'" G. Judicial Accountability and Public Confidence 20. Beyond the specific issues in this case, the Texas Supreme Court should grant rehearing to address broader concerns about judicial accountability and public confidence in the courts. The petition references a 2020 analysis by the Texas Home School Coalition that found courts "failed to protect parents' constitutional rights more than 78% of the time" in certain contested suits 9 involving parental-presumption challenges. Such patterns of perceived overreach can erode public trust in the judiciary. 21. The case of *Stary v. Ethridge*, 695 S.W.3d 417 (Tex. App.—Houston [1st Dist.] 2022), which this Court agreed to review, highlights similar due process concerns in family law proceedings. Like *Stary*, the present case raises questions about procedural safeguards in matters affecting parental rights and child welfare. 22. The perfunctory denial of mandamus relief by the Second Court of Appeals, without explanation, further compounds concerns about judicial accountability. When courts at multiple levels fail to address a clear dereliction of ministerial duty, it creates an accountability vacuum that undermines public confidence in the judiciary. The Texas Supreme Court, as the state's highest civil court, has a responsibility to ensure that lower courts fulfill their basic duties, especially in cases involving fundamental rights and child welfare. H. The Open Courts Provision 23. The trial court's refusal to hear Relator's emergency motion potentially violates the Texas Constitution's Open Courts Provision, which guarantees access to the courts for redress of injuries. Tex. Const. art. I, § 13. This provision requires that the courts be open to all persons for the redress of their grievances. When a trial court refuses even to hear a properly filed emergency motion concerning child 10 safety, it effectively denies access to justice in violation of this constitutional guarantee. 24. In *Whitworth v. Whitworth*, 222 S.W.3d 616 (Tex. App. 2007), the court emphasized that a judge who issues an order transferring possession and temporary custody of a child without making the necessary factual findings acts without authority, rendering the orders invalid. Similarly, a judge who refuses even to consider a properly filed emergency motion regarding child welfare abdicates a fundamental judicial responsibility. I. Best Interest of the Child 25. The Texas Family Code mandates that "the best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child." Tex. Fam. Code § 153.002. By refusing to hear Relator's emergency TRO, the trial court failed to consider how its inaction might affect the best interest of the child. 26. The preventable dental emergency suffered by the youngest child demonstrates that the trial court's refusal to act was contrary to the child's best interest. This Court should grant rehearing to ensure that trial courts fulfill their statutory duty to prioritize the best interest of the child in all decisions affecting child welfare. 11 J. Differential Treatment and Denial of Equal Protection 27. The petition suggests that the trial court's refusal to hear Relator's emergency TRO stands in stark contrast to its apparent swiftness in acting upon the Real Party in Interest's initial application, which Relator contends was based on false pretenses. This differential treatment raises concerns about equal protection under the law. 28. The court's acceptance of the initial emergency filing, which resulted in Relator being removed from his home and having access to his children restricted, compared with its

refusal to even entertain Relator's subsequent emergency motion, suggests arbitrary decision-making that contradicts principles of fairness and due process. K. Exceptional Circumstances Warranting Extraordinary Relief 29. The combination of factors in this case—the trial court's clear failure to perform a ministerial duty, the absence of an adequate remedy by appeal, the fundamental nature of the parental rights at stake, and the preventable harm that resulted to a child—creates exceptional circumstances that warrant the extraordinary remedy of mandamus. 30. This Court has recognized that mandamus may be appropriate in exceptional cases where the benefits of mandamus review outweigh the detriments. In *re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004). This case 12 presents such exceptional circumstances given the clear abuse of discretion, the absence of appellate remedy, and the importance of the rights at stake. 31. In *In re R.G.*, 06-24-00035-CV (Tex. App. Sep 11, 2024), the court recognized that "the Supreme Court of the United States and the Supreme Court of Texas have recognized that involuntary termination of parental rights involves fundamental constitutional rights. As a result, when the Department seeks to permanently terminate the relationship between a parent and a child, it must observe fundamentally fair procedures." This principle applies with equal force here, where the trial court's refusal to hear an emergency motion involving child welfare failed to observe fundamentally fair procedures. V. The Role of the Texas Supreme Court 32. As the highest civil court in Texas, the Supreme Court has a responsibility to ensure that the judicial system functions properly and that fundamental rights are protected. When lower courts fail to perform their basic ministerial duties and appellate courts deny relief without explanation, the Supreme Court must step in to maintain the integrity of the judicial system. 33. The Government Code explicitly empowers the Supreme Court to issue writs of mandamus against district judges. Tex. Gov't. Code § 22.002 provides that "the supreme court or a justice of the supreme court may issue writs of procedendo and certiorari and all writs of quo warranto and mandamus agreeable to the 13 principles of law regulating those writs, against a statutory county court judge, a statutory probate court judge, a district judge, a court of appeals or a justice of a court of appeals, or any officer of state government except the governor, the court of criminal appeals, or a judge of the court of criminal appeals." 34. This grant of authority reflects the Supreme Court's role as the ultimate guardian of legal rights in the state's civil justice system. By granting rehearing in this case, the Court would fulfill this important role and provide guidance to lower courts on their obligation to hear and rule on properly filed emergency motions, particularly those involving child welfare. VI. Conclusion 35. This Court should grant rehearing because this case presents exceptional circumstances that warrant extraordinary relief. The trial court's refusal to hear Relator's properly filed emergency TRO constitutes a clear abuse of discretion that left Relator without an adequate remedy by appeal and resulted in preventable harm to a child. 36. The case implicates fundamental constitutional rights, including parental rights and due process, which deserve heightened protection. It also raises broader concerns about judicial accountability and public confidence in the courts when judges refuse to perform their basic ministerial duties and appellate courts deny relief without explanation. 14 37. By granting rehearing, the Court would not only address the specific injustice suffered by Relator and his child but also

reaffirm important principles: that Texas courts must provide a meaningful forum for litigants, especially in emergencies involving child safety; that judges must perform their ministerial duties without bias or arbitrary refusal; and that the judicial system as a whole must be accountable to the people it serves. 38. The preventable harm that has already occurred to the child in this case underscores the inadequacy of any remedy other than mandamus. The Supreme Court should therefore grant rehearing to ensure that justice is served and that similar harms are prevented in the future. VII. PRAYER FOR RELIEF WHEREFORE, PREMISES CONSIDERED, Relator Charles Dustin Myers respectfully prays that this Honorable Court: 1. Grant this Motion for Rehearing in cause number 25-0367; 2. Withdraw its prior denial of the original petition for writ of mandamus; 3. Issue a writ of mandamus compelling the trial court to hear and rule on Relator's properly filed Emergency Temporary Restraining Order, as required by law; 4. Declare that the trial court's refusal to hear the emergency motion filed on March 28, 2025, constitutes a clear abuse of discretion and a violation of 15 Relator's fundamental rights under both the Texas Constitution and the United States Constitution; 5. Hold that the trial court's inaction deprived Relator of due process, violated the Open Courts provision of the Texas Constitution, and failed to prioritize the best interest of the child as required under Tex. Fam. Code § 153.002; 6. Recognize that no adequate remedy exists by appeal, and that mandamus relief is the only appropriate means of redress under these circumstances; 7. Provide such other and further relief at law or in equity as this Court deems just and proper, including the clarification of lower courts' ministerial obligations to hear emergency matters affecting the welfare of a child. Respectfully submitted, /s/ Charles Dustin Myers CHARLES DUSTIN MYERS Pro Se Relator chuckdustin12@gmail.com 817-546-3693 Dated: July 11, 2025 Automated Certificate of eService This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below: Envelope ID: 103019239 Filing Code Description: Motion for Rehearing Filing Description: Motion for Rehearing Status as of 7/11/2025 10:37 AM CST Case Contacts Name CHARLES DMYERS MORGAN MICHELLEMYERS Honorable Kate Stone COOPER CARTER BarNumber Email CHUCKDUSTIN12@GMAIL.COM MORGANMW02@GMAIL.COM adwierzicki@tarrantcountytexas.gov COOPERCARTER@MAJADMIN.COM Timestamp Submitted 7/11/2025 10:34:55 AM 7/11/2025 10:34:55 AM 7/11/2025 10:34:55 AM 7/11/2025 10:34:55 AM Status SENT SENT SENT SENT 1 NO. 25-0426 IN THE SUPREME COURT OF TEXAS IN RE: CHARLES DUSTIN MYERS § § § § § MOTION FOR REHEARING § § § § § TO THE HONORABLE SUPREME COURT OF TEXAS: Relator CHARLES DUSTIN MYERS respectfully submits this motion for rehearing regarding cause number 25-0426 before this Honorable Court. There exist five judges involved in the same family law matter before the Court, none of which have provided a response, and the case remains inactive in the trial court below. Because there has been no response, Relator will file a similar motion in case numbers 25-0361, 25-0367, 25-378, and 25-0458 to incorporate potential counter arguments and why they fail. This Court should grant rehearing for cause number 25-0426, and in support of this request, Relator shows the following: FILED 25-0426 7/11/2025 10:50 AM tex-103020586 SUPREME COURT OF TEXAS BLAKE A. HAWTHORNE, CLERK 2 I. INTRODUCTION 1. The rehearing should be granted, and mandamus

petition should issue because Judge Evans abused his discretion by overruling the relator's procedural objections and allowing continued involvement of the court coordinator and Associate Judge Kaitcer in recusal proceedings, despite Texas Rule of Civil Procedure 18a's clear requirements.

II. Summary 2. The petition for writ of mandamus brought by Charles Dustin Myers (Relator) challenges Presiding Regional Judge David L. Evans' (Respondent) order overruling objections to procedural irregularities in recusal proceedings. The case involves two principal issues: (1) whether the Respondent abused his discretion by permitting a court coordinator, rather than the court clerk, to handle recusal documentation as required by Texas Rule of Civil Procedure 18a; and (2) whether the Respondent further abused his discretion by allowing Associate Judge Kaitcer to file an order referring himself for recusal despite not being named in the Relator's motion to recuse. 3. The Texas Rules of Civil Procedure establish mandatory procedures for handling recusal motions that cannot be circumvented by judges or court personnel. These procedural requirements are designed to ensure impartiality and transparency in the recusal process. The case record demonstrates that these 3 procedural safeguards were bypassed when the court coordinator performed duties specifically assigned to the court clerk by Rule 18a, and when Associate Judge Kaitcer filed a recusal referral despite not being named in any recusal motion. Because there is no adequate remedy by appeal for these procedural violations, mandamus relief is appropriate.

III. Background and Relevant Law A. Texas Rule of Civil Procedure 18a 4. Texas Rule of Civil Procedure 18a governs the recusal and disqualification of judges in Texas. This rule establishes comprehensive procedural requirements for handling motions to recuse. Several provisions are particularly relevant to this case: 5. Rule 18a(e)(1) specifically addresses the duty of the clerk when a recusal motion is filed: "When a motion or response is filed, the clerk of the court must immediately deliver a copy to the respondent judge and to the presiding judge of the administrative judicial region in which the court is located ('the regional presiding judge')." This rule unambiguously assigns the delivery responsibility to the clerk of the court, not to other court personnel such as a court coordinator. 6. Rule 18a(f)(1) establishes the obligations of a judge who faces a recusal motion: "Regardless of whether the motion complies with this rule, the respondent judge, within three business days after the motion is filed, must either: (A) sign and file with the clerk an order of recusal or disqualification; or (B) sign and file with the clerk an order referring the motion to the regional presiding judge." This duty applies only when a motion to recuse names that specific judge. 7. Rule 18a(f)(2)(A) restricts the actions a judge may take after a recusal motion is filed: "If a motion is filed before evidence has been offered at trial, the respondent judge must take no further action in the case until the motion has been decided, except for good cause stated in writing or on the record."

B. Texas Government Code Provisions 8. Several provisions of the Texas Government Code are also relevant: Section 74.101 establishes the role of court coordinators: "(a) The local administrative judge and each district or statutory county court judge may establish a court coordinator system and appoint a court coordinator for his court to improve justice and expedite the processing of cases through the courts. (b) Each court coordinator serves at the pleasure of the judge who appointed him." 9. Section 74.102 delineates the duties of court coordinators: "(a) The courts by local administrative rule shall designate the duties of the court

coordinators. (b) To promote uniform and efficient administration of justice in this state, the court coordinators shall cooperate with regional presiding and local administrative judges and state agencies having duties in the area of the operation of the courts." C. Case Law on Recusal Procedures and Mandamus Standard 5 10. Texas courts have consistently held that the procedural requirements of Rule 18a are mandatory. In *In re Thompson*, 330 S.W.3d 411 (Tex. App. 2010), the court emphasized that "Rule 18a imposes certain mandatory requirements on a judge once a motion to recuse is filed: (c) Prior to any further proceedings in the case, the judge shall either recuse himself or request the presiding judge of the administrative judicial district to assign a judge to hear such motion." 11. Similarly, in *In re Amir-Sharif*, NUMBER 13-19-00573-CV (Tex. App. Dec 12, 2019), the court reiterated that "Texas Rule of Civil Procedure 18a(f)(1) governs the duties of the respondent judge when a party files a motion to recuse... [r]egardless of whether the motion complies with this rule, the respondent judge, within three business days after the motion is filed, must either: (A) sign and file with the clerk an order of recusal or disqualification; or (B) sign and file with the clerk an order referring the motion to the regional presiding judge." IV. Analysis D. The Role of Court Clerk vs. Court Coordinator in Recusal Proceedings 12. The Relator's first issue challenges Judge Evans' decision to overrule his objection regarding the court coordinator's involvement in the recusal process. Rule 18a(e)(1) explicitly requires that "the clerk of the court must immediately deliver a copy [of the motion] to the respondent judge and to the presiding judge of 6 the administrative judicial region." This language is unambiguous and assigns this duty specifically to the clerk of the court, not to any other court personnel. 13. In overruling the Relator's objection, Judge Evans cited Texas Government Code § 74.102(b), which states that court coordinators "shall cooperate with regional presiding and local administrative judges" to promote efficient administration of justice. However, this general provision does not override the specific procedural requirements of Rule 18a. A general statutory provision for cooperation cannot supersede the explicit procedural safeguards established in the Texas Rules of Civil Procedure. 14. As noted in *In Re Rio Grande Valley Gas Co*, 987 S.W.2d 167 (Tex. App. 1999), recusal motions must be filed "with the clerk of the court." This reinforces the understanding that the court clerk, not the court coordinator, is the proper recipient and handler of recusal-related filings. 15. The distinction between clerk and coordinator is not merely semantic. As established by Texas Government Code § 74.101(b), a court coordinator "serves at the pleasure of the judge who appointed him." This creates an inherent conflict when a coordinator appointed by a judge is involved in processing motions seeking that same judge's recusal. The clerk, by contrast, serves as a neutral officer of the court rather than as a personal appointee of any particular judge. 7 16. Judge Evans' order stating that "Only the judges, not the litigants, have the authority to direct the activities of the court coordinators and clerks" misses the point. The issue is not about who directs court personnel, but about following the procedural requirements explicitly established by Rule 18a. The Rule itself directs that the clerk, not the coordinator, must handle certain aspects of recusal proceedings. E. The Improper Referral by Judge Kaitcer 17. The second issue concerns Judge Evans' decision to overrule the Relator's objection to Associate Judge Jeff Kaitcer's order of referral. The record shows that the Relator's motion sought to recuse only the Honorable James Munford, not

Associate Judge Kaitcer. Yet Judge Kaitcer nonetheless filed an order referring himself for recusal proceedings. 18. Texas courts have consistently held that a judge's duties under Rule 18a are triggered only by the filing of a motion. As stated in *In re Norman*, 191 S.W.3d 858 (Tex. App. 2006), "Under Texas Rule of Civil Procedure 18a, Judge Austin had a mandatory duty either to recuse himself or to refer the recusal motion to the presiding judge." However, this duty only arises when there is actually a motion seeking that judge's recusal. 19. In *In re Stearman*, 252 S.W.3d 113 (Tex. App. 2008), the court explained that "Once a recusal motion is filed, a trial judge generally has two options: (1) 8 recuse himself/herself; or (2) forward the motion to the presiding judge and request the assignment of another judge to hear the motion." The triggering event is the filing of a motion to recuse that particular judge. Without such a motion, a judge has no authority under Rule 18a to initiate recusal proceedings against himself. Judge Evans' order attempted to rectify this procedural error by stating that "the judge who hears the Kaitcer recusal motion may take into consideration Mr. Myers' claim that he did not file a motion to recuse Judge Kaitcer." However, this approach compounds rather than resolves the error. It recognizes the existence of a "Kaitcer recusal motion" while simultaneously acknowledging that no such motion may actually exist. If there is no motion to recuse Judge Kaitcer, there should be no "Kaitcer recusal motion" to be heard by any judge. 20. As stated in *In re A.R.*, 236 S.W.3d 460 (Tex. App. 2007), "When a judge is presented with a motion to recuse, he or she has only two options; recusal or referral of the matter to the administrative presiding judge." The court further held that "Failure to comply with the rule renders any actions taken subsequent to the violation void." By implication, when no recusal motion is filed against a particular judge, that judge has no authority to take any action under Rule 18a. F. Abuse of Discretion Standard 21. Judge Evans' order overruling the Relator's objections constitutes an abuse of discretion under the standard established in *Walker v. Packer*, 827 S.W.2d 9 833, 839-40 (Tex. 1992). According to *Ford Motor Co. v. Garcia*, 363 S.W.3d 573, 578 (Tex. 2012), "an abuse of discretion occurs when a trial court's ruling is arbitrary and unreasonable, made without regard for guiding legal principles or supporting evidence." Similarly, *In re Sw. Bell Tel. Co.*, 226 S.W. 3d 400, 403 (Tex. 2007) holds that "a trial court abuses its discretion when it fails to analyze or apply the law correctly." 22. By permitting procedures that directly contradict the requirements of Rule 18a, Judge Evans failed to apply the law correctly. The rule's requirements that the clerk handle certain aspects of recusal proceedings and that a judge must be named in a recusal motion before having any duties under the rule are not discretionary. They are mandatory procedural safeguards designed to ensure the integrity of the recusal process. G. No Adequate Remedy by Appeal 23. For mandamus to be appropriate, the relator must also establish that there is no adequate remedy by appeal. While *In re Union Pacific Resources Co.*, 969 S.W.2d 427 (Tex. 1998) held that the denial of a recusal motion can generally be reviewed on appeal from a final judgment, the present case involves procedural irregularities in the handling of the recusal motion itself, not merely its denial. As explained in *Monroe v. Blackmon*, 946 S.W.2d 533 (Tex. App. 1997), "The only instances in which mandamus has been found to be appropriate to review action on 10 a motion to recuse is where the challenged judge fails to comply with his duty under Rule of Civil Procedure 18a(c) & (d) to either recuse himself or refer the motion." The court further

noted that "When the motion has not been referred for a hearing to the administrative judge or another judge designated by him, the movant has not had an opportunity to develop a record on his recusal motion, and, without a record, he has no adequate remedy by appeal." 24. In *De Leon v. Aguilar*, 127 S.W.3d 1 (Tex. Crim. App. 2004), the court held that mandamus relief is appropriate when "the act sought to be compelled is purely 'ministerial' and [the relator] has no adequate legal remedy." The court emphasized that "When a recusal motion is timely filed, Rule 18a leaves a trial judge with no discretion—the trial judge must either recuse himself or refer the motion for another judge to decide." 25. The procedural violations in this case—allowing a court coordinator to perform duties assigned to the clerk and permitting a judge to initiate recusal proceedings against himself without a motion—undermine the integrity of the entire recusal process. These errors cannot be adequately remedied on appeal from a final judgment, as they affect the fundamental fairness of the proceedings themselves. 11 H. Jurisdiction of the Supreme Court 26. The Texas Supreme Court has original jurisdiction to issue writs of mandamus. Tex. Const. art. 5, § 3 provides that "The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction." Moreover, as noted in the CHAPTER 6 Petitions for Writ of Mandamus, "Section 22.221(b) provides that a court of appeals may issue a writ of mandamus against a judge of a district or county court in the court of appeals' district. But, like the Supreme Court, the intermediate appellate courts lack jurisdiction against those not listed in the statute..." 27. In *In re Lopez*, 286 S.W.3d 408 (Tex. App. 2008), the court explained that "The government code does not grant a court of appeals the authority to issue a writ of mandamus against a regional presiding judge acting in his administrative capacity." Since the Respondent is the regional presiding judge, the Supreme Court is the appropriate forum for this mandamus petition. V. Potential Arguments 28. While the procedural requirements of Rule 18a are generally mandatory, the rule does allow for some flexibility in certain circumstances. Rule 18a(f)(2)(A) 12 permits a judge to take further action in a case after a recusal motion is filed if there is "good cause stated in writing or on the record." However, Judge Evans' order overruling the Relator's objections does not establish any good cause for deviating from the rule's requirements regarding the clerk's duties or the necessity of a motion before a judge can take action under the rule. 29. Similarly, while Rule 18a(g)(3)(A) allows for summary denial of non-compliant recusal motions, this provision does not authorize the practices challenged in this case. The rule states that "A motion to recuse that does not comply with this rule may be denied without an oral hearing." This addresses the content and form of recusal motions, not the procedural requirements for handling those motions once they are filed. VI. Conclusion 30. Judge Evans abused his discretion by overruling the Relator's objections to procedural irregularities in the recusal process. Rule 18a specifically assigns certain duties to the clerk of the court, not to a court coordinator who serves at the pleasure of the judge being recused. Additionally, the rule's procedures are triggered only by the filing of a motion to recuse a particular judge; without such a motion, a judge has no authority to initiate recusal proceedings against

himself. These procedural violations undermine the integrity of the recusal process, which is designed to ensure impartiality and transparency. Because these errors affect the 13 fundamental fairness of the proceedings themselves, there is no adequate remedy by appeal. The Texas Supreme Court has jurisdiction to issue a writ of mandamus against the regional presiding judge, and such relief is appropriate in this case. 31. Therefore, the Court should grant this rehearing, and the petition for writ of mandamus should issue, directing Judge Evans to vacate his orders of May 15, 2025, and May 6, 2025, and to follow the mandatory procedural requirements of Rule 18a in handling the Relator's recusal motion. VII. Prayer for Relief 32. WHEREFORE, PREMISES CONSIDERED, Relator Charles Dustin Myers respectfully prays that this Honorable Court: i. Grant this Motion for Rehearing in cause number 25-0426; ii. Withdraw its prior denial of the petition for writ of mandamus; iii. Issue a writ of mandamus directing the Honorable David L. Evans, Regional Presiding Judge, to vacate his orders dated May 6 and May 15, 2025, which overruled Relator's procedural objections in the recusal proceedings; iv. Declare that court coordinators may not substitute for the clerk of the court in carrying out duties explicitly assigned to the clerk under Texas Rule of Civil Procedure 18a, and that such delegation is procedurally improper and void; 14 v. Declare that a judge may not invoke Rule 18a to refer himself for recusal unless and until he is specifically named in a motion to recuse filed by a party, and that the referral by Associate Judge Kaitcer was unauthorized and invalid; vi. Clarify that compliance with Rule 18a is mandatory, and that failure to follow its procedures—including improper delegation and unauthorized referrals—constitutes an abuse of discretion warranting mandamus relief; vii. Declare that these procedural violations deprived Relator of due process and compromised the integrity and neutrality of the recusal process, leaving no adequate remedy by appeal; viii. Direct the Respondent to ensure proper handling of all future Rule 18a motions, including delivery by the court clerk and proper identification of the respondent judge in accordance with the rule; ix. Grant such other and further relief to which Relator may be justly entitled at law or in equity. 15 Respectfully submitted, /s/ Charles Dustin Myers CHARLES DUSTIN MYERS CHUCKDUSTIN12@GMAIL.COM 817-546-3693 PRO-SE RELATOR Dated: July 11, 2025 Automated Certificate of eService This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below: Envelope ID: 103020586 Filing Code Description: Motion for Rehearing Filing Description: Motion for Rehearing Status as of 7/11/2025 10:52 AM CST Case Contacts Name CHARLES DMYERS Morgan MichelleMyers Honorable David LEvans Holly Hayes Cooper Carter BarNumber Email CHUCKDUSTIN12@GMAIL.COM morganmw02@gmail.com thkemp@tarrantcounty.com csd-legal-914@texasattorneygeneral.gov COOPERCARTER@majadmin.com TimestampSubmitted 7/11/2025 10:50:10 AM 7/11/2025 10:50:10 AM 7/11/2025 10:50:10 AM 7/11/2025 10:50:10 AM 7/11/2025 10:50:10 AM Status SENT SENT SENT SENT SENT 1 NO. 25-\_\_\_ IN THE SUPREME COURT OF TEXAS In Re: Charles Dustin Myers, Relator Original Proceeding from the 322nd District Court Tarrant County, Texas Hon. John H. Cayce, Jr. Presiding by Assignment PETITION FOR WRIT OF MANDAMUS Respectfully submitted by: Charles Dustin Myers, Relator 817-546-3693 CHUCKDUSTIN12@GMAIL.COM Denton County, Texas EMERGENCY STAY



REQUESTED FILED 25-0458 5/27/2025 1:09 PM tex-101277699 SUPREME COURT OF TEXAS BLAKE A. HAWTHORNE, CLERK 2 Identity of Parties and Counsel Relator Charles Dustin Myers chuckdustin12@gmail.com 817-546-3693 Intervenor Holly Hayes SBN# 24110698 2001 Beach Street Fort Worth, TX 76103 csd-legal-914@texasattorneygeneral.gov Real Party in Interest Morgan Michelle Myers Morganmw02@gmail.com Counsel for Real Party in Interest Cooper L. Carter SBN# 24121530 Marx, Altman & Johnson 2905 Lackland Road Fort Worth, TX 76116; (817) 926-6211 cooperclarter@majadmin.com Respondent Hon. John H. Cayce, Jr. Presiding by Assignment 8th Administrative Judicial Region of Texas 100 N. Calhoun St., 2nd Floor Fort Worth, TX 76196-1148 thkemp@tarrantcounty.com (817) 884-1558 3 TABLE OF CONTENTS Identity of parties and counsel ..... 2 Table of contents ..... 3 Index of authorities ..... 4 Statement of the case..... 5 Statement of jurisdiction ..... 6 Issues presented ..... 7 Statement of facts ..... 8-12 Introduction ..... 13 Argument ..... 14 I. Standard of review ..... 14-15 II. The Respondent abused his discretion when summarily denying the Relator’s recusal motion without a hearing and for reasons that do not comport with the motion filed ..... 15--16 III. The compounding issues in this matter reveal a pattern of conduct that has broader implications for the Texas Legal System if not resolved, and have perpetuated the lack of an appellate remedy ..... 17-18 Conclusion ..... 18-21 Prayer ..... 21-22 Certification (TRAP 52.3(j)) ..... 23 Certificate of compliance ..... 24 4 INDEX OF AUTHORITIES CASE PAGE # In re Amir-Sharif, NUMBER 13-19-00573-CV (Tex. App. Dec 12, 2019) ..... 15 Canadian Helicopters, Ltd. v. Wittig, 876 S.W.2d 304, 306 (Tex. 1994) ..... 14 Perry v. Del Rio, 66 S.W.3d 239, 257 (Tex.2001) ..... 14 In re Prudential Ins. Co. of America, 148 S.W.3d 124, (Tex. 2003) ..... 14 Ex parte Sinegar, 324 S.W.3d 578 (Tex. Crim. App. 2010) ..... 15 Spigener v. Wallis, 80 S.W.3d 174 (Tex. App. 2002) ..... 15 Taylor v. Taylor (Tex. App. 2001) ..... 15 In re Thompson, 330 S.W.3d 411 (Tex. App. 2010) ..... 15 In re Union Pacific Resources Co., 969 S.W.2d 427 (Tex. 1998) ..... 15 Walker v. Packer, 827

S.W.2d 833, 840 (Tex.1992) ..... 14

RULES AND STATUTES Tex. R. Civ. P. §

1 ..... 14 Tex. R. Civ. P. §

18a ..... passim 5 STATEMENT

OF THE CASE Nature of Underlying Proceeding: This original proceeding

arises from a divorce action, No. 322-744263-23, pending in the 322nd

District Court of Tarrant County, Texas. The Relator initiated recusal

proceedings under Texas Rule of Civil Procedure 18a, which were handled in a manner which deviated outside of Rule 18a's requirements. See 25-0426.

The current petition addresses the summary denial of the recusal motion

and highlights a broader pattern of systemic failures below. Respondent

Judge: The Respondent Judge, Honorable John H. Cayce, Jr., is the presiding

Judge of the 322nd District Court of Tarrant County by assignment from the

Regional Presiding Judge of the 8th Administrative Judicial Region of Texas.

Respondent's Challenged Actions: Respondent's summary denial of the

Relator's recusal motion was an abuse of discretion because it came after

the failure of the Respondent and Regional Presiding judges to comply with

Rule 18a of the Texas Rules of Civil Procedure. The quick decision denied a

motion which was never filed, and the provided reasoning does not comport

with the face of the motion, and was made to prevent mandamus review of

case number 25-046, leaving the Relator without an appellate remedy to

address the issues. 6 Statement of Jurisdiction This Petition for Writ of

Mandamus is originally filed in the Supreme Court of Texas, which possesses

concurrent jurisdiction to issue writs of mandamus against assigned judges

pursuant to Article V, Section 3 of the Texas Constitution and Texas

Government Code § 22.002(a). The compelling reason that this mandamus

has been brought before this Honorable Court prior to being adjudicated in

the Second Court of Appeals is because the error alleged could affect the

four concurrent mandamus petitions pending with the same parties or

otherwise could impede this Court's ability to properly adjudicate them,

justifying this Mandamus to "enforce [the Court's] jurisdiction" as permitted

by Tex. Const. art. 5 § 3. The mandamus is necessary to protect or enforce

the Supreme Court's jurisdiction over the pending petitions.<sup>1</sup> 1 See 25-0361,

25-0367, 25-0378, and 25-0426. 7 ISSUES PRESENTED Issue No. 1: The

Respondent abused his discretion when summarily denying the Relator's

recusal motion without a hearing and for reasons that do not comport with

the motion filed. Issue No. 2: The compounding issues in this matter reveal a

pattern of conduct that has broader implications for the Texas Legal System

if not resolved and have perpetuated the lack of an appellate remedy. 8

STATEMENT OF FACTS On April 28, 2025, the Relator filed a First Amended

Motion to Recuse, naming Honorable James Munford of the 322nd District

Court of Tarrant County as the respondent judge (MR 1). In the motion,

starting on page 19, the Relator referenced the prior recusal proceedings

initiated on October 7, 2024, highlighting a four-month delay between when

the first motion to recuse was ruled on versus when the judges were re-

instated into the case due to the involvement of the court coordinator. (MR

1.19-1.20). In the next section of the motion underneath the header "IV.

PROCEDURE", the Relator reiterated the correct recusal process pursuant

to Rule 18a of the Texas Rules of Civil Procedure and specifically objected to

any involvement of the court coordinator in the process in the current

recusal proceedings. (MR. 1.20) The following day, after receiving receipt of

the referral orders from the court coordinator of the 322nd District Court of

Tarrant County, including one from Honorable Kaitcer (MR 2, MR 3), the Relator filed an Objection – Procedural Handling, where he raised attention to two key issues: “...a judge who was never implicated in the present recusal motion has inexplicably involved himself without justification, the court coordinator improperly continues to perform roles for which she has no lawful authority...” (MR 4.3) On May 6, 2025, an order of assignment was issued by the Honorable David L. Evans of the 8th Administrative Judicial Region of Texas appointing “Honorable 9 John H. Cayce, Senior Chief Justice, Second Court of Appeals to the 322nd District Court of Tarrant County”, and on the face of this order, the District Clerk, Honorable James Munford, and the appointed judge were CC’ed (MR 5). The order also stated “[t]he judge is assigned to preside in the Motion to Recuse the Honorable James Munford and the Honorable Jeffrey Kaitcer filed by Charles Dustin Myers on April 25, 2025, and the First Amended Motion to Recuse the Honorable James Munford and the Honorable Jeffrey Kaitcer filed on April 28, 2025 in Cause Number 322-744263-23...” In response, an Objection to the Order of Assignment Dated May 6, 2025, was filed complaining of the same two primary issues: 1) the involvement of the court coordinator and 2) the erroneous order of referral issued by Hon. Kaitcer. (MR 6) Specifically, it was stated: “...the Amended Recusal Motion filed on April 28, 2025, named only the Honorable James Munford as the judge whose recusal was sought. It did not seek the recusal of the Honorable Jeffrey Kaitcer.” (MR 6.2 at 2) and: “Despite Respondent’s objections, the Court Coordinator for the 322nd District Court has continued to be involved in the administrative handling and communication regarding these recusal proceedings.” (MR 6.2 at 5) On May 15, 2025, the Regional Presiding Judge issued an order overruling the Relator’s complaints, leading to mandamus petition 25-0426 before this Honorable Court filed on May 19, 2025 (MR 8). The very next day, two orders 10 were issued by Honorable John. H. Cayce, Jr., the Respondent judge named herein, summarily denying the recusal motion (APP 1, APP 2). Specifically, the first order issued by the Respondent found that Relator’s motion was: “...based solely on the judge's rulings in the case under Tex. R. Civ. P. 18a (a) (3), and, even assuming they are not, the motions fail to state with detail and particularity facts that are within the affiant's personal knowledge, or on information and belief, that would be admissible in evidence and that, if proven, would be sufficient to justify recusal of Judge Munford on any ground specified in Tex. R. Civ. P. 18b (b), as required by Tex. R. Civ. P. 18a (a)(4).” (APP 1.1) The second order was an order denying the recusal of Hon. Jeffrey Kaitcer, where it was stated: “After reviewing the motion and amended motion, as well as the Objection to Order of Assignment dated May 6, 2025 in which the movant claims that he did not file a motion to recuse Associate Judge Kaitcer, I find that, based on the substance of said motions and movant's own admission that he is not seeking to recuse Associate Judge Kaitcer, the referred motion and amended motion do not comply with Tex. R. Civ. P. 18a (a).” (APP 2.1) Both orders were transmitted by the court coordinator via informal email (APP 1.2, APP 2.2). The following day, on May 21, 2025, the Relator filed a Notice of Intent to File Mandamus, highlighting his intent to challenge these orders and providing the trial court with an opportunity to correct the error and schedule the matter for a hearing out of respect (MR 9). Specifically, the Relator stated that: “The [Relator] correctly invoked Texas Rule of Civil Procedure 18a(f)(3) by filing a timely objection to procedural deviations in

the administration of the recusal proceedings.” (MR 9.5) 11 Specifically, after outlining the correct recusal process pursuant to Rule 18a, the Relator stated that: “The Court’s decision to summarily deny the motion to recuse Hon. James Munford and also summarily deny a motion that was never filed raises the question as to what motion the court was reviewing, and if it was a true and accurate copy of the motion as filed with the clerk of the court.” (MR 9.6) And highlighted that: “...the ruling on a motion which was never filed came after the involvement of the court coordinator who serves at the pleasure of the same Judge subject to recusal.” (MR 9.7) In the absence of any corrective measures or guidance from the lower court, and with no active opposition or available appellate remedy, the Relator has now prepared this petition for a writ of mandamus. This submission represents the fifth concurrent mandamus petition before this Honorable Court, and the sixth overall, revealing a pattern. The initial issues remain unresolved, and five additional issues have been introduced. The only guidance received has been in the form of nine per curiam denials from the Second Court of Appeals.<sup>2</sup> 2 See *In re C.M.*, No. 02-24-00149-CV (Tex. App.—Fort Worth Apr. 10, 2024) (per curiam) (denial of petition for writ of mandamus & motion for emergency relief); *In re C.M.*, No. 02-24-00149-CV (Tex. App.—Fort Worth Apr. 25, 2024) (per curiam) (denial of motion for rehearing); *In re C.M.*, No. 02-24-00149-CV (Tex. App.—Fort Worth May 2, 2024) (per curiam) (denial of motion for en banc reconsideration); *In re Charles Dustin Myers*, No. 02-25-00164-CV (Tex. App.—Fort Worth Apr. 11, 2025) (per curiam) (denial of petition for writ of mandamus & motion for emergency relief); *In re Charles Dustin Myers*, No. 02-25-00166-CV (Tex. App.—Fort Worth Apr. 15, 2025) (per curiam) (denial of petition for writ of mandamus & emergency motion to stay proceedings); *In re Charles Dustin Myers*, No. 02-25-00171-CV (Tex. App.—Fort Worth Apr. 17, 2025) (per curiam) (denial of petition for writ of mandamus & request for 12 TO THE HONORABLE SUPREME COURT OF TEXAS: The essence of this case is encapsulated in a single, profound word: accountability. The journey of the Relator, CHARLES DUSTIN MYERS, is not one of a mere pro-se litigant fumbling through the legal system, but rather that of a devoted father and relentless advocate for his children, M.E.M. and C.R.M. This is a man who, having been stripped of everything at the outset, stands before this Court with nothing left to lose and everything to gain by zealously advocating on behalf of his minor children while upholding Texas law established by this very institution. This endeavor is not an affront to the judiciary, but a clarion call to recognize the lengths to which the Relator has gone to draw awareness to the fact that he has no opponent – only time. That he has not made excuses, but rather diligently pursued his rights in accordance with Texas laws and procedure to the best of his ability. This Petition, alongside the concurrent proceedings docketed under cause numbers 25- 0361, 25-0367, 25-0378, and 25-0426 reflect an ongoing procedural disaster that should have been dismissed months ago for want of prosecution. Nevertheless, the Relator now turns to the ripest issue. emergency relief); *In re Charles Dustin Myers*, No. 02-25-00166-CV (Tex. App.—Fort Worth Apr. 24, 2025) (per curiam) (denial of motion for en banc reconsideration); *In re Charles Dustin Myers*, No. 02-25-00164-CV (Tex. App.—Fort Worth May 1, 2025) (per curiam) (denial of motion for en banc reconsideration); *In re Charles Dustin Myers*, No. 02-25-00171-CV (Tex. App.—Fort Worth May 1, 2025) (per curiam) (denial of motion for en banc reconsideration). 13 INTRODUCTION The trial court

below, the Real Party, and all Honorable Respondents collectively named herein have remained silent on the compounding issues before this Court, a common theme across all five mandamus petitions. The reason this web of procedural violations exists to begin with is due to their fraudulent inducement by the Real Party. Instead of taking judicial action on these significant claims supported by hundreds of pages of supporting documentation that remain un-opposed, and instead of acting sua sponte to prevent the ongoing damage to the parent-child relationship, the Relator's business operations, and to effectuate longoverdue justice, each Respondent named in these petitions has played their part in a broader pattern of systemic failure that seems to be derived from one singular line of reasoning: the Relator is representing himself pro-se. This bias has proven to be so significant that it has affected the decision making process across two district courts, administrative proceedings, and has condoned silence from an attorney who has not performed her duties diligently as the Relator seeks redress. This bias is misplaced and must be set aside so these matters can be dealt with from a legal perspective in accordance with Texas law. It is imperative that this Court stay these proceedings which will restore the rights of the Relator and allow for a comprehensive review of the issues at hand, as the the Relator possesses no corrective appellate or administrative remedy. 14

ARGUMENT I. Standard of review Mandamus is an extraordinary remedy available only in situations involving manifest and urgent necessity and not for grievances that may be addressed by other remedies. To obtain mandamus relief in Texas, a relator must satisfy a well-established two-prong test by demonstrating: (1) that the lower court committed a clear abuse of discretion and (2) that there is no adequate remedy at law, such as a normal appeal. The matter of *In re Prudential Ins. Co. of America*, 148 S.W.3d 124, (Tex. 2003) established this standard, stating: "Mandamus is an extraordinary remedy available 'only in situations involving manifest and urgent necessity and not for grievances that may be addressed by other remedies.'" (quoting *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex.1992)). To obtain mandamus relief, the relator must satisfy a two-prong test. Relator must demonstrate (1) that the lower court committed a clear abuse of discretion (2) for which there is no adequate remedy at law, such as a normal appeal." *Id.* at 839-40. A party establishes that its appellate remedy is inadequate by showing that it is in real danger of permanently losing its substantial rights. *Perry v. Del Rio*, 66 S.W.3d 239, 257 (Tex.2001); *Walker*, 827 S.W.2d at 842; *Canadian Helicopters, Ltd. v. Wittig*, 876 S.W.2d 304, 15 306 (Tex.1994). That is precisely the present matter at hand, as explained in more detail below.

II. The Respondent abused his discretion when summarily denying the Relator's recusal motion without a hearing and for reasons that do not comport with the motion filed. Rule 1 of the Texas Rules of Civil Procedure states that the proper objective of the rules is "to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law." See also *Taylor v. Taylor* (Tex. App. 2001). When a court fails to comply with Rule 18a, this would undermine this objective, and the case may be remanded on appeal to ensure proper procedures are followed. *Ex parte Sinegar*, 324 S.W.3d 578 (Tex. Crim. App. 2010) illustrates this consequence, where the court remanded the case "for the trial judge to rule on applicant's motion to recuse pursuant to Rule 18a(c)." As emphasized in *In re Union Pacific Resources Co.*, 969 S.W.2d 427 (Tex. 1998) and *Spigener v. Wallis*, 80 S.W.3d

174 (Tex. App. 2002) both emphasize that the erroneous denial of a recusal motion "is not fundamental error and can be waived if not raised by proper motion." This suggests that parties must be diligent in objecting to Rule 18a violations and preserving the issue for appeal. In other words, parties may seek mandamus relief to compel compliance with Rule 18a, as demonstrated in *In re Thompson*, 330 S.W.3d 411 (Tex. App. 2010) and *In re Amir- Sharif*, NUMBER 13-19-00573-CV (Tex. App. Dec 12, 2019). 16 Here, the Relator objected to the deviations from the clear process of Rule 18a, the court overruled it, leading to cause number 25-0426 to seek compliance with the rule, and then after receiving receipt of this challenge, the court proceeded to use the same rule to summarily deny relief with reasoning that cannot be attributed to the motion as submitted. As stated in the Notice to Intent to File Mandamus: "While the Respondent respects this court's engagement, the reasoning provided does not comport with the face of the motion. The bookmarks provided in the PDF alone provide clear grounds for recusal that are not solely based on the judge's rulings" (MR 9.6-9.7) The fact that a second order denying a motion that was never filed was ruled on strongly supports that the involvement of the court coordinator has caused ambiguity in the recusal process, lead to orders that do not comport with the substance of the motion, and the summary denials appear to be an attempt to prevent mandamus adjudication. When a trial court creates an appearance of impartiality, which is what has occurred here, the entire purpose of the recusal proceedings becomes undermined, and the Relator now faces serious risk of losing his substantial rights to property, the liberty interest of his children, and the right to a fair and impartial tribunal. The entire purpose of the recusal proceedings were. The bookmarks provided in the PDF alone provide clear grounds for recusal that are not solely based on the judge's rulings. 17 III. The compounding issues in this matter reveal a pattern of conduct that has broader implications for the Texas Legal System if not resolved, and have perpetuated the lack of an appellate remedy. There are a few distinct facts on the face of the record provided that raise significant concerns about how the recusal process was handled, revealing a broader pattern that threatens the impartiality of the Texas judiciary. First, the order of assignment dated May 6, 2025, only had Hon. James Munford, the Clerk of the Court, and the Respondent named therein CC'ed. (MR 5.1) If the court truly believed a motion to recuse Honorable Jeff Kaitcer was filed, then why wouldn't they have included him in the correspondence? Second, the order of referral signed by Hon. Jeff Kaitcer stated: "On April 25, 2025, a Motion to Recuse filed by Charles Dustin Myers was delivered to the Associate Judge of this Court." Between the person who delivered the motion, the Associate Judge himself, the Regional Presiding Judge, and the Assigned Judge - the motion could not have been properly reviewed, because if it had been - it would have been clearly established that the motion did not seek the recusal of Hon. Jeff Kaitcer. A cursory review of the motion establishes this fact in several areas, including on page 22 of the motion (MR. 1.22), in the Prayer for Relief (MR. 1.34), and in the Affidavit (MR. 1.36). Finally, because of the way that these recusal proceedings were handled in comparison to the prior recusal proceedings, serious concerns regarding the impartiality of the tribunal remain in question. As stated in the amended motion to recuse as originally filed regarding the prior recusal proceedings: "James Munford had to amend his initial referral order due to procedural abnormalities revolving the court coordinator and tampering

with documents due to alleged file size.” (MR 1.12)(emphasis added) This is not a minor error. This is significant, because the motion as submitted was stripped of the hyperlinks, bookmarks, and was non text-searchable after the coordinator became involved, and had its’ affidavit and exhibits removed. It was only after pointing out these errors that the reasoning changed, and the motion was then was split into three parts due to the motion’s apparent size in an amended order of referral. These actions create an appearance of impartiality and deviates from the standard recusal protocol pursuant to Rule 18a, which is why the Relator objected to the involvement of the coordinator in these current proceedings to begin with in the motion itself (MR 1.20). The court should have sustained the objection and held a hearing on the recusal matters once the threshold issues were resolved. Instead, it chose to introduce ambiguity into this process and stray from the rules.

**CONCLUSION** The record before this Court illuminates a judicial landscape where procedural safeguards have been systematically dismantled, leaving in their wake a hollow shell of what due process demands. When a court coordinator—who serves 19 at the pleasure of the very judge subject to recusal—inserts herself into proceedings explicitly designed to be free from such influence, the foundation of impartiality crumbles. When orders reference motions never filed, deny hearings explicitly required by law, and mischaracterize the very substance of pleadings properly before the court, we witness not mere oversight but the collapse of procedural integrity. The pattern revealed across five concurrent mandamus petitions transcends isolated error. It manifests a judicial environment where a pro se litigant's rights have been subordinated to expediency, where silence has become the response to substantiated allegations, and where the machinery of justice grinds forward without the lubricant of fairness or the compass of law. The uncontested record demonstrates that at every critical juncture, Rule 18a's requirements have been selectively applied, creating an impenetrable maze where appellate remedies vanish into procedural dead ends. What stands before this Court is not merely a technical violation of recusal procedures, but the systematic erosion of the bedrock principles upon which our judicial system rests. When a father seeking nothing more than the protection of his relationship with his children is met with procedural barriers erected by the very institutions designed to safeguard those relationships, the damage extends beyond a 20 single case. It reaches into the public's perception of whether justice remains accessible to all, regardless of representation status. The absence of opposition to these proceedings speaks volumes. In this silence lies tacit acknowledgment that the procedural labyrinth created below cannot be defended on its merits. The unrefuted record demonstrates that the Relator has diligently pursued every available avenue for redress, only to find each path obstructed by deviations from established procedure. This Court now stands as the final bulwark against the perpetuation of a process that has strayed so far from its statutory moorings that it threatens to become unrecognizable. The fact of the matter remains: no response has been issued. No opposition to the relief being requested, including the emergency stays submitted in cause numbers 25-0361 and 25-0426, has been filed. Therefore, the proceedings below should be stayed, not merely to correct the trajectory of a single case, but to reaffirm that in Texas, procedural rules are not mere suggestions to be selectively followed, but to prevent further errors from occurring pending review, to restore the parent-child bond, and allow for a comprehensive review of all five petitions. The

Relator remains committed to resolving these matters and has filed each petition with good intention. He seeks to restore what was wrongfully taken from him, which does not threaten the rights of any participant in this matter, and would serve the children's best interests. 21 By staying these proceedings, Texas' essential architecture of justice itself is preserved pending review, and the rights of the Relator would be restored, the public Policy will be upheld. The integrity of our judicial system and the children in this matter demand no less. PRAYER WHEREFORE, ALL PREMISES CONSIDERED, the Relator, CHARLES DUSTIN MYERS, respectfully prays that this Honorable Court provide the following relief: 1. Grant the emergency stay filed in cause number 25-0426 pending mandamus review to stay the administrative proceedings; 2. Grant the emergency stay filed in cause number 25-0361 pending mandamus review to stay the trial court proceedings; 3. Consider granting the Third Amended Motion to Consolidate that will follow the submission of this Petition for Writ of Mandamus to provide a more streamlined review of the issues; 4. After review, issue mandamus against the Respondent judge named herein, compelling him to vacate the Orders Summarily Denying the First Amended Motion to Recuse the Honorable James Munford, thereby preserving this court's jurisdiction regarding cause number 25-0426; 22 5. Grant any additional equitable or special relief that this Honorable Court deems just and proper under the circumstances. Respectfully submitted, /s/ Charles Dustin Myers CHARLES DUSTIN MYERS CHUCKDUSTIN12@GMAIL.COM 817-546-3693 PRO-SE RELATOR 23 Certification (TRAP 52.3(j)) Before me, the undersigned authority, on this day personally appeared Charles Dustin Myers, Relator, representing himself in his own individual capacity, and upon his oath, stated that (i) he is self-represented in this cause in the underlying suit, 322nd Judicial District Court, Tarrant County, Cause No.322- 744263-23; (ii) he has reviewed the Petition for Writ of Mandamus and concluded that every factual statement in the petition is supported by competent evidence included in the appendix and record; and (3) he has personal knowledge that the items in the appendix and record are true and correct copies of documents material to Relator's claims and are either pleadings that are on file in the underlying suit, or orders signed by the trial court in the underlying suit. The Relator states that no live testimony has been adduced in this matter, nor has any evidence been offered or admitted. 05/26/2025 State of Texas County of Collin County Sworn to and subscribed before me on 05/26/2025 by Charles Dustin Myers. Electronically signed and notarized online using the Proof platform. CHARLES DUSTIN MYERS 24 Certificate of Compliance (TRAP 9.4(i)(3)) I certify that this Petition for Writ of Mandamus complies with the typeface requirements of Tex. R. App. P. 9.4(e) because it has been prepared in a conventional typeface no smaller than 14-point for text and 12-point for footnotes. This document also complies with the word-count limitations of Tex. R. App. P. 9.4(i), if applicable, because it contains 3431 words. NO. 25-\_\_\_\_ IN THE SUPREME COURT OF TEXAS IN RE: CHARLES DUSTIN MYERS, RELATOR. On Petition for Writ of Mandamus from the 322nd Judicial District Court, Tarrant County Trial Court Cause 322-744263-23 Original Proceeding Hon. John H. Cayce, Jr. Presiding by Assignment RELATOR'S APPENDIX Respectfully submitted by: Charles Dustin Myers, Relator Charles Dustin Myers Chuckdustin12@gmail.com 817-546-3693 Pro-Se 25 TABLE OF CONTENTS TAB# ITEM TAB1 ..... SUMMARY DENIAL OF RECUSAL - HON. MUNFORD



TAB2 ..... SUMMARY DENIAL OF RECUSAL - HON. KAITCER 26  
TAB 1 27 CAUSE NO. 322-744263-23 IN THE MATTER OF THE MARRIAGE  
OF MORGAN MICHELE MYERS AND CHARLES DUSTIN MYERS § § § § § §  
AND IN THE INTEREST OF MARA § MYERS AND CAROLINE MYERS, §  
MINOR CHILDREN § IN THE DISTRICT COURT TARRANT COUNTY, TEXAS  
322nd JUDICIAL DISTRICT ORDER SUMMARILY DENYING MOTION FOR  
RECUSAL Before me is an Order of Referral from the Honorable James B.  
Munford signed April 29, 2025, referring a Motion to Recuse and First  
Amended Motion to Recuse filed by Charles Dustin Myers in the above-  
referenced matter. After reviewing the motion and amended motion, I find  
that the motion and amended motion are based solely on the judge's rulings  
in the case under Tex. R. Civ. P. 18a (a) (3), and, even assuming they are not,  
the motions fail to state with detail and particularity facts that are within the  
affiant's personal knowledge, or on information and belief, that would be  
admissible in evidence and that, if proven, would be sufficient to justify  
recusal of Judge Munford on any ground specified in Tex. R. Civ. P. 18b (b),  
as required by Tex. R. Civ. P. 18a (a)(4). THEREFORE, having concluded that  
the motion and amended motion seeking to recuse Judge Munford fail to  
comply with Tex. R. Civ. P. 18a (a), I summarily deny the motions in this  
matter, without a hearing, pursuant to Tex. R. Civ. SIGNED this 19th day of  
May, 2025. 1 Page 1 of 1 322-744263-23 FILED TARRANT COUNTY  
5/20/2025 10:22 AM THOMAS A. WILDER DISTRICT CLERK APP 1.1 28  
Lindsey K. Baker From: Lindsey K. Baker Sent: Monday, May 19, 2025 3:50  
PM To: Subject: FUDSTOP; Cooper Carter; 'CSD-  
LEGAL-914@TEXASATTORNEYGENERAL.GOV' Myers 322-744263-23  
Attachments: 322-744263-23 Myers - Order Summarily Denying Motion for  
Recusal as to Judge Munford.pdf; 322-744263-23 Myers - Order Summarily  
Denying Motion for Recusal as to Judge Kaitcer.pdf Attached is an Order  
Summarily Denying Motion for Recusal as to Judge Munford and an Order  
Summarily Denying Motion for Recusal as to Judge Kaitcer in the above-  
referenced case. Thank you. L~13akev 322nd Court Coordinator Tarrant  
County Family Law Center 200 E. Weatherford, 4th floor Fort Worth, Texas  
76196 Phone: (817) 884-1597 1 APP 1.2 29 Automated Certificate of  
eService This automated certificate of service was created by the eFiling  
system. The filer served this document via email generated by the eFiling  
system on the date and to the persons listed below. The rules governing  
certificates of service have not changed. Filers must still provide a  
certificate of service that complies with all applicable rules. Envelope ID:  
101040714 Filing Code Description: No Fee Documents Filing Description:  
Status as of 5/20/2025 2:17 PM CST Case Contacts Name CHARLES MYERS  
Cooper L.Carter HOLLY HAYES BarNumber Email  
chuckdustin12@gmail.com coopercarter@majadmin.com csd-  
legal-914@texasattorneygeneral.gov TimestampSubmitted 5/20/2025  
10:22:59 AM 5/20/2025 10:22:59 AM 5/20/2025 10:22:59 AM Status SENT  
SENT SENT APP 1.3 30 TAB 2 31 CAUSE NO. 322-744263-23 IN THE  
MATTER OF THE MARRIAGE OF MORGAN MICHELE MYERS AND  
CHARLES DUSTIN MYERS § § § § § § AND IN THE INTEREST OF MARA §  
MYERS AND CAROLINE MYERS, § MINOR CHILDREN § IN THE DISTRICT  
COURT TARRANT COUNTY, TEXAS 322nd JUDICIAL DISTRICT ORDER  
SUMMARILY DENYING MOTION FOR RECUSAL Before me is an Order of  
Referral from the Honorable Jeffrey N. Kaitcer signed April 29, 2025,  
referring a Motion to Recuse and First Amended Motion to Recuse filed by

Charles Dustin Myers in the above-referenced matter. After reviewing the motion and amended motion, as well as the Objection to Order of Assignment dated May 6, 2025 in which the movant claims that he did not file a motion to recuse Associate Judge Kaitcer, I find that, based on the substance of said motions and movant's own admission that he is not seeking to recuse Associate Judge Kaitcer, the referred motion and amended motion do not comply with Tex. R. Civ. P. 18a (a). THEREFORE, having concluded that the motion and amended motion referred by Judge Kaitcer do not comply with Tex. R. Civ. P. 18a (a), I summarily deny the motions in this matter, without a hearing, pursuant to Tex. R. Civ. P. 18a,(g (3)(A). SIGNED this 19th day of May, 2025 Page 1 of 1 322-744263-23 FILED TARRANT COUNTY 5/20/2025 10:22 AM THOMAS A. WILDER DISTRICT CLERK APP 2.1 32 Lindsey K. Baker From: Sent: Lindsey K. Baker Monday, May 19, 2025 3:50 PM To: Subject: FUDSTOP; Cooper Carter; 'CSD-LEGAL-914@TEXASATTORNEYGENERAL.GOV' Myers 322-744263-23 Attachments: 322-744263-23 Myers - Order Summarily Denying Motion for Recusal as to Judge Munford.pdf; 322-744263-23 Myers - Order Summarily Denying Motion for Recusal as to Judge Kaitcer.pdf Attached is an Order Summarily Denying Motion for Recusal as to Judge Munford and an Order Summarily Denying Motion for Recusal as to Judge Kaitcer in the above-referenced case. Thank you. L 13aker 322nd Court Coordinator Tarrant County Family Law Center 200 E. Weatherford, 4th floor Fort Worth, Texas 76196 Phone: (817) 884-1597 1 APP 2.2 33 Automated Certificate of eService This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules. Envelope ID: 101040714 Filing Code Description: No Fee Documents Filing Description: Status as of 5/20/2025 2:17 PM CST Case Contacts Name CHARLES MYERS Cooper L.Carter HOLLY HAYES BarNumber Email chuckdustin12@gmail.com coopercarter@majadmin.com csd-legal-914@texasattorneygeneral.gov TimestampSubmitted 5/20/2025 10:22:59 AM 5/20/2025 10:22:59 AM 5/20/2025 10:22:59 AM Status SENT SENT SENT APP 2.3 34 Automated Certificate of eService This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below: Envelope ID: 101277699 Filing Code Description: Petition Filing Description: Petition for Writ of Mandamus Status as of 5/27/2025 2:47 PM CST Case Contacts Name Honorable John H.Cayce Morgan MichelleMyers CHARLES DMYERS Holly Hayes BarNumber Email thkemp@tarrantcounty.com morganmw02@gmail.com CHUCKDUSTIN12@GMAIL.COM csd-legal-914@texasattorneygeneral.gov TimestampSubmitted 5/27/2025 1:09:35 PM 5/27/2025 1:09:35 PM 5/27/2025 1:09:35 PM 5/27/2025 1:09:35 PM Status SENT SENT SENT SENT 1 NO. 25-0361IN THE SUPREME COURT OF TEXAS § § § § §MOTION FOR REHEARING § § § § § TO THE HONORABLE SUPREME COURT OF TEXAS: Relator CHARLES DUSTIN MYERS respectfully submits this request in favor of cause number 25-0361 before this Honorable Court. There exist five judges involved in the same family law matter before the Court, none of which have provided a response, and the case remains inactive in the trial court below. The law is clear, yet continues to be disregarded here. Because

there has been no response, Relator will file a similar motion in case numbers 25-0367, 25-0378, 25-0426, and 25-0458 to incorporate potential counter arguments and why they fail. This Court should grant mandamus relief for cause number 25-0361, and in support of this request, shows the following undisputed facts: IN RE: CHARLES DUSTIN MYERS FILED 25-0361 7/11/2025 10:12 AM tex-103017353 SUPREME COURT OF TEXAS BLAKE A. HAWTHORNE, CLERK 2 I. INTRODUCTION 1. The Texas Supreme Court should grant Myers' petition for writ of mandamus because the associate judge lacked statutory authority to render and sign temporary orders after the relator withdrew consent and timely requested a de novo hearing, and the orders were never properly adopted by the referring court as required by the Texas Family Code. II. Summary 2. The Relator, Charles Dustin Myers, is seeking mandamus relief from the Texas Supreme Court after being denied relief by the Second Court of Appeals. The underlying issue concerns temporary orders entered by an associate judge in a divorce proceeding despite Myers' timely withdrawal of consent and request for a de novo hearing. Under Texas Family Code, an associate judge has limited authority to enter final orders, with specific exceptions that are not applicable in this case once consent has been withdrawn. 3. The petition for mandamus relief should be granted because the associate judge acted beyond his statutory authority by entering orders after Myers revoked his consent and requested a de novo hearing. Furthermore, the associate judge's orders never became effective as orders of the referring court because they were not properly adopted by the referring district judge as required by the Texas Family Code. These orders are therefore void, not merely voidable, and mandamus is the 3 appropriate remedy since void orders can be challenged at any time and appeal is not an adequate remedy. III. Background and Relevant Law A. Texas Family Code Provisions on Associate Judge Authority 4. The Texas Family Code carefully circumscribes the authority of associate judges. Under Tex. Fam. Code § 201.007, an associate judge may conduct hearings, hear evidence, make findings of fact, formulate conclusions of law, and recommend orders. However, the associate judge's authority to render and sign final orders is limited to specific circumstances enumerated in Tex. Fam. Code § 201.007(a)(14), which provides that an associate judge may "without prejudice to the right to a de novo hearing before the referring court under Section 201.015 and subject to Subsection (c), render and sign: (A) a final order agreed to in writing as to both form and substance by all parties; (B) a final default order; (C) a temporary order; or (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing." 4 5. This authority is explicitly "subject to Subsection (c)," which provides that a final order described in Subsection (a)(14) "becomes final after the expiration of the period described by Section 201.015(a) if a party does not request a de novo hearing in accordance with that section." Tex. Fam. Code § 201.007(c). 6. The right to request a de novo hearing is established in Tex. Fam. Code § 201.015(a), which states: "A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the third working day after the date the party receives notice of: (1) the substance of the associate judge's report as provided by Section 201.011; or (2) the rendering of the temporary order, if the request

concerns a temporary order rendered by an associate judge under Section 201.007(a)(14)(C)." 7. When such a request is made, Tex. Fam. Code § 201.015(f) requires: "The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date on which the initial request for a de novo hearing was filed with the clerk of the referring court." 8. Furthermore, Tex. Fam. Code § 201.013(b) provides that in cases where there is no appeal to the referring court (i.e., no request for a de novo hearing), the findings and recommendations of the associate judge become the order of the referring court only when "the referring court signs an order conforming to the associate judge's report." 9. These provisions make clear that an associate judge's order is not final if a party timely requests a de novo hearing, and the associate judge's findings and recommendations must be presented to and adopted by the referring court through the judge's signature to become an effective order of the court.

IV. Analysis B. The Associate Judge Lacked Authority to Enter the Challenged Orders

15. The facts of this case demonstrate that the associate judge lacked the statutory authority to enter the temporary orders that are being challenged. While Myers initially signed an "Agreed Associate Judge's Report" on February 1, 2024, he explicitly withdrew his consent by filing an emergency motion to vacate on February 9, 2024. This withdrawal of consent occurred within three working days of notice of the associate judge's report, well within the time limit prescribed by Tex. Fam. Code § 201.015(a) for requesting a de novo hearing.

16. Once Myers withdrew his consent and requested a de novo hearing, the associate judge's authority to render and sign a final order under Tex. Fam. Code § 201.007(a)(14)(A) was removed. This subsection allows an associate judge to sign a final order only if it is "agreed to in writing as to both form and substance by all parties." With Myers' withdrawal of consent, this condition was no longer satisfied. Furthermore, Tex. Fam. Code § 201.007(c) explicitly states that a final order under subsection (a)(14) becomes final only if "a party does not request a de novo hearing in accordance with that section." Myers did request such a hearing, which means the associate judge's report could not become final.

17. The March 14, 2024, hearing conducted by the associate judge after Myers' request for a de novo hearing was procedurally improper. According to Tex. Fam. Code § 201.015(f), the referring court (the district court judge), not the associate judge, "shall hold a de novo hearing" after a request is filed. By conducting the hearing himself, the associate judge exceeded his statutory authority.

18. Most significantly, the March 26, 2024, temporary orders recite that "all parties have agreed to the terms... as evidenced by the signatures below," despite the fact that Myers had explicitly withdrawn his consent and did not sign the orders. This mischaracterization further demonstrates that the orders were not properly entered according to the requirements of Tex. Fam. Code § 201.007(a)(14)(A), which requires agreement by all parties.

7 C. The Orders Never Became Orders of the Referring Court

19. Even if the associate judge had the authority to issue recommendations or temporary orders (which he did not after Myers withdrew consent), those orders never became effective orders of the referring court because they were never properly adopted. Under Tex. Fam. Code § 201.013(b), an associate judge's findings and recommendations become the order of the referring court only when "the referring court signs an order conforming to the associate judge's report." The record indicates that the district court judge never signed any order adopting the associate

judge's recommendations. The March 26, 2024, temporary orders were only attested to by the district court clerk, not signed by the district court judge as required by law. 20. As the court held in *Graham v. Graham*, 414 S.W.3d 800 (Tex. App. 2013): "In cases in which there is no appeal to the referring court, the findings and recommendations of the associate judge will become the order of the referring court when the referring court signs an order conforming to the associate judge's report." Here, there was an appeal to the referring court in the form of Myers' request for a de novo hearing, and the referring court never signed any order adopting the associate judge's report. Therefore, the temporary orders never properly took effect. 8 D. The Orders Are Void and Mandamus Is the Appropriate Remedy 21. Because the associate judge acted beyond his statutory authority, and because the orders were never properly adopted by the referring court, the March 26, 2024, temporary orders are void, not merely voidable. 22. As explained in *In re Office of Attorney General of Texas*, 264 S.W.3d 800 (Tex. App. 2008): "Mandamus is available when a judge acts outside of his court's jurisdiction, i.e., when the judicial act is void... Mandamus will issue to vacate a void order even when there is an adequate remedy by appeal." 23. Furthermore, temporary orders in family law cases are not appealable, making mandamus the only appropriate remedy. As stated in *In re Hita* (Tex. App. May 14, 2025), "Because a trial court's temporary orders are not appealable, mandamus is an appropriate means to challenge them." 24. The situation in this case is analogous to that in *In re Gold*, 04-25-00085-CV (Tex. App. May 07, 2025), where the court held that when a judge fails to follow procedural requirements, "all subsequent actions by the judge in that case are void." Here, the associate judge failed to follow the procedural requirements of the Texas Family Code by entering orders after consent had been withdrawn and a de novo hearing had been requested, and by failing to ensure that those orders were properly adopted by the referring court. 9 25. Additionally, *In re Harris* (Tex. App. Feb. 29, 2024) held that "If an order or judgment is signed after the court loses plenary jurisdiction, the order or judgment is void." Similarly, once Myers withdrew his consent and requested a de novo hearing, the associate judge lost jurisdiction to enter the orders without following the proper procedures for a de novo hearing before the referring court. E. The Second Court of Appeals Erred in Denying Relief 26. The Second Court of Appeals' per curiam denial of Myers' petition for writ of mandamus was erroneous. The court did not provide any reasoning for its denial, but given the clear statutory provisions and case law, the associate judge's actions were beyond his authority and the resulting orders are void. As the Supreme Court has recognized, mandamus will issue to remedy void orders regardless of whether the relator has an adequate remedy by appeal. The Second Court of Appeals should have granted the petition and directed the trial court to vacate the unauthorized orders. V. POTENTIAL ARGUMENTS 27. There are a few potential arguments against granting mandamus relief, but they are not persuasive in this case: i. One might argue that Myers' filing on February 9, 2024, which was styled as a "Motion for Reconsideration and to Vacate 10 Temporary Orders," was not a proper request for a de novo hearing under Tex. Fam. Code § 201.015. However, the substance of the filing, which explicitly withdrew consent and requested a hearing, should be treated as a de novo hearing request regardless of how it was styled. The Texas Family Code does not prescribe a specific form for requesting a de novo hearing, only that it be made in writing and filed within

the three-working-day deadline. ii. One might also argue that the associate judge's orders were merely voidable, not void, and that Myers should have pursued other remedies. However, as established in *In re Office of Attorney General of Texas*, 264 S.W.3d 800 (Tex. App. 2008), orders entered outside a court's jurisdiction are void, not voidable. The associate judge's lack of statutory authority to enter the orders after Myers withdrew consent and requested a de novo hearing places this case squarely within the category of void orders. iii. Finally, one might argue that Myers should have appealed the associate judge's decision to the district court rather than seeking mandamus relief. However, Tex. Fam. Code § 11 201.015 already provides for de novo review before the referring court, and Myers properly requested such review. It was the associate judge who failed to refer the matter to the district court as required by law. Moreover, as noted in *In re Hita* (Tex. App. May 14, 2025), temporary orders are not appealable, making mandamus the appropriate remedy. VI. Conclusion 28. For the foregoing reasons, the Texas Supreme Court should grant Myers' petition for writ of mandamus. The associate judge lacked the statutory authority to enter the temporary orders after Myers withdrew his consent and requested a de novo hearing. Furthermore, the orders were never properly adopted by the referring court as required by the Texas Family Code. As a result, the orders are void, and mandamus is the appropriate remedy to vacate them. 29. The Texas Family Code provides a clear framework governing the authority of associate judges and the procedures for challenging their recommendations through de novo hearings before the referring court. This framework was not followed in this case, resulting in orders that exceed the associate judge's statutory authority and were never properly adopted by the referring court. 12 30. By granting mandamus relief and directing the trial court to vacate the unauthorized orders, the Supreme Court would uphold the statutory limits on associate judge authority and ensure that parties' rights to de novo hearings before referring courts are protected. This would also prevent the ongoing harm to Myers caused by void orders that have remained in effect for over sixteen months despite having no legal validity. VII. Prayer for Relief 31. WHEREFORE, PREMISES CONSIDERED, Relator Charles Dustin Myers respectfully prays that this Honorable Court: i. Grant this Motion for Rehearing in cause number 25-0361; ii. Withdraw its denial of the original petition for writ of mandamus; iii. Issue a writ of mandamus compelling the 322nd District Court of Tarrant County, Texas, to vacate the temporary orders signed March 26, 2024, as void; iv. Declare that the associate judge acted beyond his statutory authority by rendering and signing the temporary orders after Relator timely withdrew consent and requested a de novo hearing under Tex. Fam. Code § 201.015; 13 v. Declare that said orders were never properly adopted by the referring court in accordance with Tex. Fam. Code § 201.013(b), and therefore never became enforceable orders of the court; vi. Grant any such further relief to which Relator may be justly entitled in law or in equity. Respectfully submitted, /s/ Charles Dustin Myers CHARLES DUSTIN MYERS Pro Se Relator chuckdustin12@gmail.com 817-546-3693 Dated: July 11, 2025 Automated Certificate of eService This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below: Envelope ID: 103017353 Filing Code Description: Motion for Rehearing Filing Description: Motion for Rehearing Status as of 7/11/2025 10:27 AM CST Case Contacts Name CHARLES

DMYERS HONORABLE JEFFREY NKAITCER Deterrean Gamble Nicole Loya  
COOPER CARTER MORGAN MICHELLEMYERS Matthew Deal BarNumber  
Email CHUCKDUSTIN12@GMAIL.COM LKBaker@tarrantcountytx.gov  
deterrean.gamble@oag.texas.gov nicole.loya@oag.texas.gov  
COOPERCARTER@MAJADMIN.COM MORGANMW02@GMAIL.COM  
matthew.deal@oag.texas.gov TimestampSubmitted 7/11/2025 10:12:42 AM  
7/11/2025 10:12:42 AM 7/11/2025 10:12:42 AM 7/11/2025 10:12:42 AM  
7/11/2025 10:12:42 AM 7/11/2025 10:12:42 AM 7/11/2025 10:12:42 AM  
Status SENT SENT SENT SENT SENT SENT RESEARCH how when the  
supreme court of texas refuses to act on such clear abuses of discretion, and  
assuming pro-se litigants have a fool for a client is now outdated. the case  
has not been prosecuted in over a year. there's been five judges implicated  
with nothing to say. there's no accountability. if the supreme court doesn't  
act, more mandamus will come. the case doesn't have a lawful end,  
because it was initiated fraudulently. relator is now taking the initiative and  
pursuing federal claims against the petitioner in the state case, who has  
remained completely silent alongside her attorney, all 5 judges, and the  
supreme court of texas. Research how if rehearing isn't granted, the texas  
supreme court is allowing this abuse to persist, it is damaging our state and  
the future of our state, and will not just go away. What are the legal and  
ethical consequences when the Texas Supreme Court fails to act on clear,  
repeated abuses of discretion by multiple lower court judges in a family law  
case, especially where the case has exceeded time standards, there is no  
opposition from the real party or counsel, and the relator has initiated  
federal litigation due to lack of state court remedy? How does this impact  
judicial accountability, public confidence, and the integrity of the Texas  
judicial system?

## **Answer (Texas)**

### **Short response**

When the Texas Supreme Court fails to act on clear abuses of discretion by multiple lower courts in family law cases with no opposition from real parties, it undermines the mandamus remedy designed to correct such abuses and erodes public confidence in judicial accountability. This failure can be particularly detrimental in family law matters involving fundamental parental rights and child welfare, where the absence of timely intervention may cause irreparable harm and force litigants to seek federal remedies.

### **Summary**

The Texas Supreme Court's failure to address clear, repeated abuses of discretion by lower courts in family law cases creates a systemic accountability gap that threatens the integrity of the judicial system. Mandamus relief exists precisely to remedy situations where trial courts clearly abuse their discretion and no adequate appellate remedy exists, as is often the case with temporary orders in family law matters. When the state's highest civil court declines to fulfill this oversight function, especially in cases involving fundamental rights where the real party has mounted no

opposition, it effectively sanctions procedural violations that may cause lasting harm.

The consequences extend well beyond the individual case, affecting public confidence in the judiciary as a whole. When pro se litigants see their properly filed motions summarily denied without meaningful review, despite clear legal authority supporting their position, it creates the perception of a two-tiered system of justice. This perception is particularly problematic in family law matters, where the Texas Supreme Court has recognized that fundamental constitutional rights are at stake, including parental rights that deserve heightened protection. The eventual resort to federal litigation by state court litigants represents a failure of the state judicial system to provide the remedies that its own laws and precedents promise.

## **Background and Relevant Legal Framework**

The legal framework for mandamus relief in Texas provides a clear standard for intervention by higher courts when lower courts fail to fulfill their duties. For a relator to be entitled to mandamus relief, two requirements must be satisfied: (1) the trial court clearly abused its discretion and (2) the relator has no adequate remedy on appeal.

[In re Lee, 411 S.W.3d 445, 56 Tex. Sup. Ct. J. 1247 \(Tex. 2013\)](#) establishes that "Mandamus relief will lie if the relator establishes a clear abuse of discretion for which there is no adequate appellate remedy." The court further explained that a "trial court clearly abuses its discretion if it reaches a decision so arbitrary and unreasonable as to constitute a clear and prejudicial error of law." It should be noted that this case was later disagreed with by *Cojocar v. Cojocar*, NO. 03-14-00422-CV (Tex. App. Jun 16, 2016), though the disagreement was on other grounds and did not affect the fundamental standard for mandamus relief.

This standard is further elaborated in [In re Villanueva, 292 S.W.3d 236 \(Tex. App. 2009\)](#), which held that "Mandamus will issue only when the mandamus record establishes (1) a clear abuse of discretion or the violation of a duty imposed by law and (2) the absence of a clear and adequate remedy at law." The court also emphasized that "A clear failure by the trial court to apply the law correctly is an abuse of discretion," and that mandamus relief is appropriate "if it does not appear litigation will continue such that there will be a final order, there is no adequate remedy by appeal."

This framework is particularly relevant in family law cases, where temporary orders are not appealable and where fundamental rights are at stake. [In re N.R.C., 94 S.W.3d 799 \(Tex. App. 2002\)](#) highlights the gravity of family law proceedings, noting that the Texas Supreme Court "has recognized that the involuntary termination of parental rights implicates fundamental constitutional rights." The court compared termination of parental rights to "the death penalty of the parent-child relationship" and "the capital punishment of civil law," underscoring the heightened scrutiny that should apply in cases involving parental rights.



# Analysis

## Undermining the Mandamus Remedy

When the Texas Supreme Court fails to act on clear abuses of discretion in lower courts, particularly in family law cases with no opposition from the real party, it effectively undermines the mandamus remedy that exists precisely to address such situations. The mandamus standard articulated in [In re Lee, 411 S.W.3d 445](#) and [In re Villanueva, 292 S.W.3d 236](#) creates a clear framework for intervention when trial courts abuse their discretion and no adequate appellate remedy exists.

The failure to apply this framework in cases involving clear abuses, such as a trial court's refusal to hear a properly filed emergency motion concerning child welfare, effectively renders the mandamus remedy illusory. This is especially problematic in family law cases where, as noted in the materials submitted by the relator, temporary orders are not appealable, making mandamus the only available vehicle for review.

[In re K.S., NUMBER 13-21-00006-CV \(Tex. App. Mar 04, 2021\)](#) emphasizes that mandamus is "both an extraordinary remedy and a discretionary one" and that determining the adequacy of an appellate remedy requires "balancing the benefits of mandamus review against the detriments." This balancing "depends heavily on circumstances" and "must be guided by analysis of principles rather than simple rules that treat cases as categories." When the Texas Supreme Court summarily denies mandamus relief without explanation in cases involving fundamental rights and clear procedural violations, it fails to engage in this principled analysis, leaving litigants without recourse and lower courts without guidance.

## Impact on Judicial Accountability

Judicial accountability is a cornerstone of our legal system. When the highest civil court in the state fails to correct clear abuses of discretion by lower courts, it creates an accountability vacuum. In the situation described in the materials, multiple judges allegedly committed procedural violations, yet no accountability mechanism was activated. This pattern suggests a systemic failure rather than isolated errors.

The Texas Supreme Court's constitutional authority to issue writs of mandamus is intended, in part, to ensure that lower courts operate within their prescribed authority. [Tex. Const. art. 5 § 3](#) explicitly grants the Court power to "issue writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction." When the Court declines to exercise this power in cases involving clear abuses, it effectively abdicates its responsibility to maintain the integrity of the judicial system.

This abdication becomes even more concerning when considered in light of [In re N.R.C., 94 S.W.3d 799](#)'s recognition that family law matters, particularly those involving parental rights, implicate "fundamental constitutional rights." The failure to intervene in cases where these

fundamental rights are threatened by procedural irregularities suggests a troubling hierarchy of rights, where constitutional protections in family law contexts receive less rigorous enforcement than in other areas of law.

## **Erosion of Public Confidence in the Judiciary**

Perhaps the most significant consequence of the Texas Supreme Court's failure to address clear abuses of discretion is the erosion of public confidence in the judiciary. When litigants perceive that procedural rules are selectively enforced and that even clear violations go uncorrected by the highest court, it undermines faith in the fairness and impartiality of the judicial system as a whole.

This erosion of confidence is particularly acute for pro se litigants, who may already face significant challenges in navigating the legal system. When a pro se litigant who has correctly invoked legal procedures and cited relevant authority sees their petitions summarily denied without explanation, while procedural violations by courts go unaddressed, it creates the impression of a system that privileges form over substance and institutional solidarity over justice.

The situation described in the materials—where a litigant alleges that five judges have committed procedural violations, real parties have failed to respond, and the case has remained inactive beyond time standards—suggests a breakdown in the fundamental promise that courts will provide a fair and timely forum for the resolution of disputes. When even the court of last resort appears unwilling to address such breakdowns, litigants may reasonably conclude that the system itself is dysfunctional.

## **Special Considerations in Family Law Cases**

Family law cases involve unique considerations that make the failure to address abuses of discretion particularly problematic. [In re H.P.](#) highlights the importance of procedural rights in family law cases, finding that a district court's denial of a parent's timely request for a de novo hearing was "error" that was "not harmless" because it prevented the parent from properly presenting their case.

Similarly, the materials submitted by the relator suggest that emergency matters regarding child welfare were not given proper consideration by the trial court. Given the Texas Supreme Court's recognition in [In re N.R.C., 94 S.W.3d 799](#) that parental rights are fundamental constitutional rights, the failure to address clear procedural violations in this context is particularly troubling.

Moreover, the nature of family law cases often means that harm caused by procedural violations cannot be undone through later remedies. If a court refuses to hear an emergency motion regarding child safety, and harm comes to the child as a result, no subsequent appellate remedy can undo that harm. This reality makes timely intervention through mandamus relief especially important in family law contexts, and the failure to provide such relief especially damaging.

## **The Resort to Federal Litigation**

When state courts fail to provide adequate remedies for clear violations of procedural and substantive rights, litigants may turn to federal courts for relief. The mention in the materials that the relator "is now taking the initiative and pursuing federal claims against the petitioner in the state case" suggests that this is occurring in the present situation.

The resort to federal litigation represents a significant failure of the state judicial system. State courts are generally presumed to be capable of enforcing both state and federal constitutional rights, and the principle of comity encourages federal courts to defer to state courts in matters of state law. When litigants are forced to seek federal intervention because state courts, including the state's highest court, have failed to address clear abuses, it undermines this presumption and challenges the integrity of the state judicial system.

Moreover, the necessity of federal litigation imposes additional costs and delays on litigants who have already been denied timely justice in state courts. This is particularly problematic in family law cases, where time is often of the essence and delays may cause irreparable harm to parent-child relationships.

## **Competing Considerations**

While the failure to address clear abuses of discretion has serious consequences, there are competing considerations that might influence the Texas Supreme Court's approach to mandamus petitions.

First, the Court faces significant resource constraints and must be selective in the cases it chooses to hear. Mandamus is described in [In re K.S.](#), NUMBER 13-21-00006-CV as "both an extraordinary remedy and a discretionary one," suggesting that the Court has legitimate authority to decline to hear certain mandamus petitions.

Second, there may be aspects of individual cases that make them poor vehicles for addressing broader issues, even when those issues are important. Without full access to the record and the Court's internal deliberations, it is difficult to assess whether such considerations might have influenced the decision to deny mandamus relief in the specific cases mentioned in the materials.

Third, the Court may be concerned about opening floodgates to mandamus petitions if it begins granting relief in cases involving procedural violations. However, this concern must be balanced against the harm caused by allowing clear abuses to go uncorrected, particularly in cases involving fundamental rights.

# Conclusion

The failure of the Texas Supreme Court to act on clear, repeated abuses of discretion by lower courts in family law cases has significant legal and ethical consequences. It undermines the mandamus remedy that exists precisely to address such situations, erodes judicial accountability, damages public confidence in the judiciary, and may cause irreparable harm in cases involving fundamental rights and child welfare.

These consequences are particularly serious when cases have exceeded time standards, real parties have offered no opposition, and litigants are forced to seek federal remedies for violations of their rights in state courts. The resort to federal litigation represents a significant failure of the state judicial system and challenges the integrity of Texas's courts.

While there are competing considerations that might influence the Court's approach to mandamus petitions, the fundamental promise of the legal system is that there will be remedies for clear violations of rights and procedures. When the court of last resort appears unwilling to provide such remedies, even in cases involving fundamental constitutional rights, it calls into question the system's ability to fulfill this promise.

The integrity of the judicial system depends not only on the correct application of law in most cases, but on the availability of effective remedies when errors occur. When those remedies fail, particularly in cases involving the "capital punishment of civil law" (the termination or severe restriction of parental rights), the damage extends beyond individual litigants to the system as a whole. The perception that justice depends on representation status, institutional connections, or procedural formalities rather than the merits of claims undermines the very foundation of the rule of law.

While mandamus remains "an extraordinary remedy," the standard articulated in [In re Lee, 411 S.W.3d 445](#) and [In re Villanueva, 292 S.W.3d 236](#) suggests that it should be available when lower courts clearly abuse their discretion and no adequate appellate remedy exists. When the Texas Supreme Court fails to provide this remedy in appropriate cases, it leaves a gap in judicial accountability that threatens the integrity of the entire system.

## Legal Authorities

[In re Villanueva, 292 S.W.3d 236 \(Tex. App. 2009\)](#)

### Texas Court of Appeals

#### Extract

Mandamus will issue only when the mandamus record establishes (1) a clear abuse of discretion or the violation of a duty imposed by law and (2) the absence of a clear and adequate remedy at law. *Cantu v. Longoria*, 878 S.W. 2d 131, 132 (Tex. 1994) (orig. proceeding); *In re Green Tree Servicing LLC*,

275 S.W.3d 592, 600 (Tex. App.-Texarkana 2008, orig. proceeding). ... A clear failure by the trial court to apply the law correctly is an abuse of discretion. Walker, 827 S.W.2d at 840; In re Green Tree, 275 S.W.3d at 600. A reviewing court may set aside the trial court's determination if it is clear from the record that the trial court could only reach one decision. ... Since there appears to be no authority that would authorize an interlocutory appeal here and since it does not appear litigation will continue such that there will be a final order, there is no adequate remedy by appeal. With that, we conditionally grant mandamus relief. The writ of mandamus will issue only if the trial court fails to vacate its order appointing the attorney ad litem and ordering a social study.

## **Summary**

Conditions under which mandamus relief is appropriate in Texas: a clear abuse of discretion or violation of a legal duty, and the absence of an adequate remedy by appeal. It emphasizes that a trial court's failure to apply the law correctly constitutes an abuse of discretion. The passage also highlights that when there is no authority for an interlocutory appeal and no final order is expected, mandamus relief is the appropriate remedy. This is relevant to the question as it provides a legal framework for addressing judicial abuses of discretion when traditional appellate remedies are unavailable.

[In re Lee, 411 S.W.3d 445, 56 Tex. Sup. Ct. J. 1247 \(Tex. 2013\)](#)

## **Texas Supreme Court**

### **Extract**

Mandamus relief will lie if the relator establishes a clear abuse of discretion for which there is no adequate appellate remedy. In re AutoNation, Inc., 228 S.W.3d 663, 667 (Tex.2007) (orig. proceeding). A trial court clearly abuses its discretion if it reaches a decision so arbitrary and unreasonable as to constitute a clear and prejudicial error of law. Walker v. Packer, 827 S.W.2d 833, 839 (Tex.1992) (orig. proceeding). Regarding factual issues, a trial court abuses its discretion if it reasonably could only have reached one decision.

## **Summary**

Mandamus relief is appropriate when there is a clear abuse of discretion by a trial court, and there is no adequate remedy by appeal. This is relevant to the question as it highlights the legal recourse available when lower courts fail to act appropriately. The failure of the Texas Supreme Court to act on such abuses could undermine judicial accountability and public confidence, as it suggests that there is no effective oversight or remedy for judicial errors.

[In re H.P.](#)

## **Texas Court of Appeals**

### **Extract**

We hold that this order is in error. See *In re R.A.O.*, 561 S.W.3d 704, 710 (Tex. App.-Houston [14th Dist.] 2018, no pet.) (finding trial court's denial of parent's timely request for de novo hearing under Chapter 201, subchapter B was error). The district court's analysis overlooks the fact that Mother challenged the associate judge's finding that termination of Mother's parental rights would be in the child's best interest.

### **Summary**

The passage highlights a legal error where a district court denied a parent's request for a de novo hearing, which is a procedural right. This error was not harmless as it prevented the parent from properly presenting her case on appeal. The passage underscores the importance of adhering to procedural rights to ensure fair judicial proceedings.

[In re K.S., NUMBER 13-21-00006-CV \(Tex. App. Mar 04, 2021\)](#)

## **Texas Court of Appeals**

### **Extract**

Mandamus is both an extraordinary remedy and a discretionary one. In *re Garza*, 544 S.W.3d 836, 840 (Tex. 2018) (orig. proceeding) (per curiam). To obtain relief by writ of mandamus, a relator must establish that an underlying order is void or a clear abuse of discretion and that no adequate appellate remedy exists. In *re Nationwide Ins. Co. of Am.*, 494 S.W.3d 708, 712 (Tex. 2016) (orig. proceeding); In *re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839-40 (Tex. 1992) (orig. proceeding). We determine the adequacy of an appellate remedy by balancing the benefits of mandamus review against the detriments. In *re Essex Ins. Co.*, 450 S.W.3d 524, 528 (Tex. 2014) (orig. proceeding); In *re Prudential Ins. Co. of Am.*, 148 S.W.3d at 136. Because this balance depends heavily on circumstances, it must be guided by analysis of principles rather than simple rules that treat cases as categories. In *re McAllen Med. Ctr., Inc.*, 275 S.W.3d 458, 464 (Tex. 2008) (orig. proceeding).

### **Summary**

Mandamus is an extraordinary and discretionary remedy used to address clear abuses of discretion when no adequate appellate remedy exists. The adequacy of an appellate remedy is determined by balancing the benefits of mandamus review against its detriments, guided by principles rather than



rigid rules. This suggests that when the Texas Supreme Court fails to act on clear abuses of discretion, it may undermine the principles of justice and accountability, as mandamus is intended to correct such abuses when other remedies are inadequate.

[In re N.R.C., 94 S.W.3d 799 \(Tex. App. 2002\)](#)

## **Texas Court of Appeals**

### **Extract**

Certainly, the trial court was aware of the gravity of the termination of parental rights, as it paused to recognize such a proceeding as a 'very severe thing' and dub it the 'death penalty of the parent-child relationship.' See SAMPSON TINDALL, TEXAS FAMILY CODE ANNOTATED § 161, Introductory Comment p. 757 (2001) (describing a termination of parental rights as 'the capital punishment of civil law'). So weighty are the interests at stake that the Texas Supreme Court has recognized that the involuntary termination of parental rights implicates fundamental constitutional rights. *Holick v. Smith*, 685 S.W.2d 18, 20 (Tex.1985); *In re E.L.T.*, 93 S.W.3d 372, 377-78 (Tex.App.-Houston [14th Dist.] 2002, no pet. h.) (Guzman, J., concurring).

### **Summary**

The Texas Supreme Court recognizes the termination of parental rights as a severe action, akin to the "capital punishment of civil law," implicating fundamental constitutional rights. This recognition underscores the importance of judicial accountability and the need for the courts to act diligently and fairly in such cases. The failure of the Texas Supreme Court to address clear abuses of discretion in family law cases, especially those involving fundamental rights, can undermine public confidence in the judicial system and compromise its integrity.

[Tex. Fam. Code § 201.007 Tex. Fam. Code § 201.007 Powers of Associate Judge](#)

### **Extract**

without prejudice to the right to a de novo hearing before the referring court under Section FAMILY CODE 201.015 and subject to Subsection (c), render and sign: (A) a final order agreed to in writing as to both form and substance by all parties; (B) a final default order; (C) a temporary order; or (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing; ... A final order described by Subsection (a) becomes final after the expiration of the period described by Section FAMILY CODE 201.015(a) if a

party does not request a de novo hearing in accordance with that section. An order described by Subsection (a) or that is rendered and signed by an associate judge constitutes an order of the referring court.

## **Summary**

Associate judges in Texas have specific powers to render and sign orders, but these powers are subject to certain conditions, such as the right to a de novo hearing. If a party requests a de novo hearing, the associate judge's order does not become final until the referring court adopts it. This framework is designed to ensure judicial accountability and protect parties' rights. If the Texas Supreme Court fails to act on abuses of discretion, it undermines this framework, potentially leading to orders that are not legally valid and eroding public confidence in the judicial system.

[Tex. Const. art. 5 § 3 Tex. Const. art. 5 § 3 Jurisdiction of Supreme Court: Writs; Clerk](#)

## **Extract**

The Supreme Court and the Justices thereof shall have power to issue writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction.

## **Summary**

The Texas Supreme Court has the power to issue writs such as mandamus, procedendo, and certiorari to enforce its jurisdiction. This means that the Court has the authority to intervene in cases where there is a clear abuse of discretion by lower courts. The failure to act on such abuses could undermine judicial accountability, erode public confidence, and compromise the integrity of the judicial system, as the Court is expected to ensure that justice is served and that lower courts adhere to legal standards.

This memo was compiled by Vincent AI based on vLex materials available as of July 26, 2025. [View full answer on vLex](#)