

No. 02-25-00164-CV

IN THE

**SECOND JUDICIAL DISTRICT COURT OF APPEALS**

**AT FORT WORTH, TEXAS**

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**IN RE: CHARLES DUSTIN MYERS, RELATOR.**

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Petition for Writ of Prohibition  
to the 322<sup>nd</sup> Judicial District Court, Tarrant County  
Cause Number 322-744263-23  
Hon. James Munford Presiding

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**MOTION FOR REHEARING**

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Respectfully submitted by:

Charles Dustin Myers  
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**6641 Anne Court**  
**Watauga, Texas 76148**

**Emergency Relief Requested**

**TO THE HONORABLE COURT OF APPEALS:**

Relator Charles Dustin Myers, proceeding **pro se**, respectfully files this Motion for Rehearing under Texas Rule of Appellate Procedure 52.9. Relator asks the Court to reconsider its April 11, 2025, per curiam memorandum opinion denying, without explanation, Relator's petition for writ of mandamus and emergency relief. As shown below, the Court's summary denial failed to address uncontested facts and controlling law demonstrating that the trial court's orders at issue are *facially void* and have caused—and continue to cause—ongoing harm to Relator's fundamental rights and his children's status quo. Because no party has disputed Relator's evidence or arguments, the Court's refusal to act creates legal and logical inconsistencies that demand correction. Without any substantive explanation, the parties remain in the exact same spot they have been in for a year with no adequate remedy by an appeal.

**Relief Requested**

Relator requests that this court:

1. Reconsider and grant Relator's emergency motion for declaratory relief and declare the orders issued on March 14, 2024, *void ab initio* for lacking the consent of all parties and for not being adopted by the referring judge.

2. Compel the Respondent by issuing the writ of mandamus to hold a hearing on the Relator's EMERGENCY TRO at the earliest possible date to protect the Relator's fundamental rights afforded to him by the United States Constitution.

### **Grounds for Rehearing**

Rehearing is warranted because the Court's denial of mandamus relief overlooked or misapprehended critical facts and controlling law, resulting in a decision inconsistent with its own prior released opinions. Further, immediately after the Mandamus was filed on April 10, 2025, the 233<sup>rd</sup> district court *sua sponte* granted a consolidation motion without notice or hearing, and without jurisdiction.

#### **1. A clear abuse of discretion occurred.**

Generally, mandamus issues correct a clear abuse of discretion, or the violation of a duty imposed by law when there is no other adequate remedy at law. *In re Bass*, 113 S.W.3d 735, 738 (Tex. 2003) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992). By refusing to hear an emergency TRO that had been set for a hearing agreed upon by the parties, the Respondent clearly abused her discretion in denying an emergency TRO that was before the court on March 28, 2025.

These facts are clearly established in the mandamus record.

## **2. Relator has no adequate remedy by an appeal**

Because an order was not produced from the Respondent's refusal to hear the emergency motion, the Relator has been left with nothing to challenge and therefore has no adequate remedy by an appeal.

## **3. The orders referenced in the emergency motion are void**

The orders issued on March 14, 2024, are facially void. They expressly state that "As evidenced by the signatures below, the parties consent to the terms of the order". *App 2.1* On the final page of the document, only the signatures of the Real Party in Interest and her counsel are present. Therefore, because the trial court judge signed the orders knowing the consent of all parties was not present, the orders are void from the very beginning, or *void ab initio*. Because they are void, not voidable, they can be collaterally attacked at any time. *In re E.R.*, 385 S.W.3d 552, —— (Tex.2012).

By refusing to act, the Relator and the children will continue to suffer ongoing harm while the Real Party in Interest enjoys her silence alongside her legal representative to these challenges.

By declaring the orders void, the rights of *all* parties are preserved pending a legitimate hearing.

## CONCLUSION

This Court’s denial—issued without explanation and in the face of unopposed, uncontested evidence—undermines both judicial integrity and the rule of law. The trial court has enforced facially void orders, refused to hear a properly filed emergency motion, and acted without jurisdiction. Meanwhile, no party has challenged the factual or legal grounds asserted in Relator’s petition, or pleadings below. The Court’s silence, like that of the lower court, only prolongs the ongoing injury to the Relator and his children.

This case does not present a close call. It presents a failure to apply the law. The trial court’s actions defy Texas precedent and constitutional due process. The lack of any meaningful remedy by appeal, coupled with the continuing harm and the trial court’s blatant disregard for consent and jurisdiction, demands immediate appellate intervention. Relator respectfully requests that this Court reverse its denial, grant rehearing, and issue relief—before further injustice is compounded by delay.

In *In re Acceptance Ins. Co.*, this very Court granted mandamus where a trial court acted **sua sponte**, without notice, and over objections, in clear violation of due process. Yet here, despite a nearly identical procedural abuse—**a consolidation**

order issued without notice, hearing, jurisdiction, or objection considered—Relator is met not with relief, but with silence.

To deny relief now is to contradict this Court’s own precedent. If the law applied then, it must apply now. Otherwise, the rules are not rules—they are merely suggestions applied at convenience, not principle.

This Court should not become the author of its own inconsistency.  
Rehearing should be granted.

Respectfully submitted,

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**In the  
Court of Appeals  
Second Appellate District of Texas  
at Fort Worth**

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No. 02-25-00164-CV

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IN RE CHARLES DUSTIN MYERS, Relator

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Original Proceeding  
233rd District Court of Tarrant County, Texas  
Trial Court No. 233-765358-25

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Before Kerr, Bassel, and Wallach, JJ.  
Per Curiam Memorandum Opinion

## **MEMORANDUM OPINION**

The court has considered relator's petition for writ of mandamus and motion for emergency relief and is of the opinion that relief should be denied. Accordingly, relator's petition for writ of mandamus and motion for emergency relief are denied.

Per Curiam

Delivered: April 11, 2025

**CERTIFICATE OF SERVICE**

Relator certifies that on April 11, 2025, a true and correct copy of the foregoing Motion for Rehearing was served on:

***Respondent***

**Hon. Kate Stone J.D.**

Associate Judge, 233rd District Court  
Tarrant County Family Law Center  
200 E. Weatherford St.  
Fort Worth, TX 76196  
817-884-1197

Via electronic submission to the court coordinator

Via email: [ADWierzbicki@tarrantcountytexas.gov](mailto:ADWierzbicki@tarrantcountytexas.gov)

***Real Party in Interest***

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SERVED: 04/10/2025