



**25-0426**

**CASE MEMORANDUM**

**05.19.25**

**25-0361 & 25-0368 & 25-0371& 25-0426**  
**IN THE SUPREME COURT**  
**OF TEXAS**

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*IN RE: CHARLES DUSTIN MYERS, RELATOR.*

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On Petition for Writ of Mandamus

to the 322<sup>nd</sup> Judicial District Court, Tarrant County

322-744263-23 & 322-744538-23 & 233-765358-25

On Mandamus Review from case numbers:

02-25-00164, 02-25-00166, 02-25-00171-CV

in the Second District Court of Appeals, Fort Worth, Texas

Hon. Kate Stone, Hon. Jeff Kaitcer, Hon. Kenneth Newell, and

Hon. David L. Evans Presiding

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**CASE MEMORANDUM**

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Respectfully submitted by:

*Charles Dustin Myers, Relator*

**Emergency Stay Requested**

## RECORD REFERENCES

Mandamus Petitions

MANDAMUS-EVANS: 25-0426

MANDAMUS-KAITCER: [25-0361](#) | [RECORD LINK](#)

MANDAMUS-STONE: [25-0367](#) | [RECORD LINK](#)

MANDAMUS-NEWELL: [25-0378](#) | [RECORD LINK](#):

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Due to time constraints, the Relator may amend this memorandum to give a more thorough analysis of all four petitions, as the current version only discusses 25-0426 and 25-0361. Cases 25-0367 and 25-0378 stem from 25-0361. A response is welcomed from any named party or the opposing side regarding the information stated herein. The Relator may file leave to amend his consolidation motion to include the latest mandamus, if the court permits.

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## NARRATIVE SUMMARY

In the heart of Tarrant County, Texas, a profound breakdown of justice has unfolded in the case of 322-744263-23. This case presents not merely procedural irregularities, but a systematic dismantling of due process that has left a father separated from his home and fighting to preserve his parental rights against a backdrop of judicial inaction and procedural violations. Underneath it all remains the Real Party in Interest, who has had fifteen months to produce a defense against the claims made against her, and the record now speaks for itself.

The record reveals a troubling sequence that began in December 2023, when Morgan Michelle Myers initiated divorce proceedings under questionable pretenses, falsely claiming an active protective order existed to circumvent statutory waiting periods. Despite failing to secure an ex-parte protective order on December 14, 2023, she withdrew all marital funds (\$1,576) the following day and relocated to Oklahoma, before returning to file for divorce. These actions set in motion a cascade of judicial missteps that would follow.

On January 16, 2024, without proper notice or opportunity for a full hearing, and without the required findings mandated by Tex. Fam. Code 85.001, Mr. Myers was ordered to vacate his family residence by 2:30 PM that same day—giving him mere hours to leave his home. This "kick-out" order came without the procedural safeguards mandated by the Texas Family Code, marking the first in a series of due process violations that would characterize this case.

What distinguishes Mr. Myers' response to these events is his evolution as a *pro se* litigant and his unwavering vigilance in seeking relief for his children. Though initially represented by counsel, Mr. Myers quickly recognized the inadequacy of his representation and took the extraordinary step of educating himself in complex areas of family and procedural law. As documented in his fourth mandamus petition against Honorable David L. Evans, Mr. Myers has not approached this litigation as an opportunity to upset the judiciary or challenge its authority.

Rather, he has consistently and respectfully sought only what any citizen deserves: a clear explanation for why his life was upended without cause and a fair application of the law. The subsequent proceedings reveal a pattern of procedural irregularities that cannot be dismissed as mere oversight. A settlement agreement reached on February 1, 2024, established specific procedures for drafting and



approving temporary orders. Yet these procedures were summarily abandoned. An "Agreed Order to Consolidate" was issued without Mr. Myers' knowledge or consent. Most egregiously, on March 14, 2024, temporary orders were entered as "agreed" despite Mr. Myers' explicit refusal to consent

—his signature notably absent from the document that falsely claimed "all parties agree to the terms of this order."

Throughout this process, Mr. Myers has demonstrated diligence in pursuing every available procedural avenue for relief. His mandamus petitions—filed against Honorable Jeff Kaitcer ([MANDAMUS-KAITCER](#)), Honorable Kate Stone ([MANDAMUS-STONE](#)), Honorable Kenneth E. Newell ([MANDAMUS-NEWELL](#)), and now Honorable David L. Evans ([MANDAMUS-EVANS](#))—reflect not an attempt to harass the judiciary but rather a methodical, principled pursuit of justice through proper legal channels. Each petition builds upon his growing legal knowledge, demonstrating an increasingly sophisticated understanding of procedural and substantive law.

Perhaps most troubling is what followed: silence. From April 2024 until March 2025—nearly a full year—the case languished in procedural limbo. Opposing counsel failed to prosecute the case. The court failed to rule on pending motions, including an emergency motion to reconsider evidence and vacate temporary orders. Mr. Myers' request

for findings of fact and conclusions of law went unanswered. His motion to compel discovery remained unaddressed. Throughout this period, Mr. Myers remained displaced from his home, separated from his children's primary residence, and deprived of his property—all without resolution or remedy.

The damage inflicted extends beyond procedural violations. Mr. Myers has suffered financial harm through the loss of marital funds and housing displacement. He has been deprived of access to his personal property when illegally locked out of his residence on March 6, 2024. His relationship with his children has been disrupted without proper consideration of their best interests as required by law. His reputation has been damaged by unsubstantiated allegations of family violence. And he has been forced to navigate this complex legal landscape pro-se after terminating counsel who failed to adequately represent his interests.

This case represents more than a series of isolated errors; it reflects a systemic failure of the judicial process to protect the fundamental rights of a litigant. The Texas courts have long recognized that mandamus relief is appropriate when a trial court clearly abuses its discretion and the relator has no adequate remedy by appeal. Here, both conditions are abundantly satisfied. The trial court's actions—and inactions—have

created a situation where justice has been not merely delayed but effectively denied.

As Mr. Myers submits his fourth mandamus petition, this memorandum serves to document the extraordinary circumstances that necessitate such extraordinary relief. The record speaks with unmistakable clarity: this case represents one of the most egregious breakdowns of justice in Texas history, where silence is not strategy but the absence of any lawful justification for the court's actions. Mr. Myers seeks nothing more than to return to the home from which he was improperly removed—a simple request for justice that has been repeatedly denied through procedural irregularities, judicial inaction, and the systematic erosion of due process protections that form the foundation of our legal system.

Indeed, this situation has been damaging, and it has been challenging – however – Mr. Myers remains committed to working with the judiciary to find a solution that works in the best interests of all parties. He holds the circumstances of this case against no named judge herein. He respectfully asks this Court and the Respondents below to restore what was unduly taken from him as a first step.

## CURRENT STATUS

Father has now prepared his fifth mandamus petition, directed against Honorable David L. Evans, seeking relief from what he characterizes as "the most egregious breakdown of justice that Texas history has ever observed." Throughout this odyssey, Father has consistently sought only to return to his home and restore his family life—not to challenge judicial authority or upset the judiciary. His persistence in seeking explanations for why his life was upended without cause reflects not obstinance but rather a principled commitment to justice and due process. Despite facing silence from both the court and opposing counsel, he continues to pursue relief through proper legal channels, demonstrating resilience and an unwavering belief in the rule of law.

## THEMATIC ANALYSIS

### A. DUE PROCESS VIOLATIONS

The record reveals a pattern of due process violations that began with the January 16, 2024 "kick-out" order, when Father was ordered to vacate his family residence by 2:30 PM that same day—giving him mere hours to leave his home without adequate notice or opportunity for a full hearing. [[MANDAMUS-KAITCER: MR. 6.1](#)] This pattern continued through the March 14, 2024 hearing, where temporary orders

were entered as "agreed" despite Father's explicit refusal to consent, as evidenced by his missing signature on a document that falsely claimed "all parties agree to the terms of this order." [[MANDAMUS-KAITCER: APP. 1.1, APP 1.38](#)]

Additionally, an "Agreed Order to Consolidate" was issued on February 8, 2024, without Father's signature or knowledge [[MANDAMUS-KAITCER: APP. 3.2](#)], further demonstrating the court's disregard for proper notice and consent requirements. The March 14, 2024, associate judge's report was written by opposing counsel rather than the court, with the judge only adding the phrase "for his business." [[MANDAMUS-KAITCER: MR. 18.1](#)]

Throughout these proceedings, Father demonstrated remarkable restraint and respect for judicial authority. Rather than defying improper orders or engaging in self-help remedies, he consistently sought relief through proper legal channels. His response to each due process violation was not to challenge the court's authority but to educate himself on proper procedure and file appropriate motions seeking explanation and relief. As documented in his progression from his first mandamus petition ([MANDAMUS- 24-0395](#)) to his fourth (MANDAMUS-EVANS), Father's understanding of due process requirements grew in scope, yet his fundamental request remained unchanged: a fair application of established procedural safeguards.

## I. Legal Analysis

The Texas Constitution and the United States Constitution both guarantee that no person shall be deprived of life, liberty, or property without due process of law. Tex. Const. art. I, § 19; U.S. Const. amend. XIV, § 1. The Supreme Court has long held that due process requires, at minimum, notice and an opportunity to be heard "at a meaningful time and in a meaningful manner." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

In the family law context, the Texas Family Code contains specific procedural safeguards designed to protect due process rights. For example, Tex. Fam. Code § 105.001 *et seq.* explicitly requires that temporary orders may not be rendered without notice and a hearing if the order is for the temporary conservatorship of a child, attorney's fees, or for temporary support of the child.

The Texas Supreme Court has consistently emphasized the importance of procedural due process in family law matters. In *In re Chambless*, 257 S.W.3d 698, 700 (Tex. 2008), the Court held that "due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner." The Court further clarified in *In re J.F.C.*, 96 S.W.3d 256, 273 (Tex. 2002), that "procedural due process requires that when a court adjudicates a

parent's rights to his or her child, the court must provide the parent with fundamentally fair procedures."

The court's actions in this case—ordering Father to vacate his home with only hours' notice, entering orders as "agreed" without his consent, and issuing consolidation orders without his knowledge—constitute clear violations of these fundamental due process protections. As the Texas Supreme Court emphasized in *In re Office of Attorney Gen.*, 422 S.W.3d 623, 630 (Tex. 2013), "we must be particularly careful to ensure that the process is fair when a party's rights to his children are at stake."

Father's growing understanding of these legal principles is evident in the evolution of his mandamus petitions. His first petition ([MANDAMUS 24-0395](#)) demonstrated a basic understanding of due process requirements, but his pleading was fundamentally defective. By his fifth petition (MANDAMUS-EVANS), he had developed a sophisticated understanding of constitutional due process protections and their application in the family law context. This evolution reflects not a desire to challenge judicial authority but rather a commitment to understanding and properly invoking the procedural protections that form the foundation of our legal system to better understand the reasoning behind why his life was suddenly upended by the state.

## II. Procedural Remedies

### Mandamus Relief

The due process violations in this case warrant immediate mandamus relief. The Texas Supreme Court has recognized that mandamus is appropriate when a trial court clearly abuses its discretion and the relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004). Here, the trial court's disregard for basic due process requirements constitutes a clear abuse of discretion.

The Texas Supreme Court has specifically held that mandamus is appropriate to remedy due process violations in family law cases. In *In re Tex. Dep't of Family & Protective Servs.*, 210 S.W.3d 609, 613 (Tex. 2006), the Court granted mandamus relief where a trial court's actions deprived a party of due process in a child custody matter. Similarly, in *In re Derzapf*, 219 S.W.3d 327, 334 (Tex. 2007), the Court held that mandamus was appropriate where a trial court's order violated a parent's due process rights.

The standard for mandamus relief in Texas was definitively established in *Walker v. Packer*, 827 S.W.2d 833, 839-40 (Tex. 1992), where the Texas Supreme Court clarified that a relator must establish both that the trial court clearly abused its discretion and that the relator



has no adequate remedy by appeal. This standard has been consistently applied in subsequent cases, including *In re Columbia Med. Ctr. of Las Colinas, Subsidiary, L.P.*, 290 S.W.3d 204, 207 (Tex. 2009), where the Court emphasized that "the adequacy of an appellate remedy must be determined by balancing the benefits of mandamus review against the detriments."

The appropriate remedy would be an order directing the trial court to vacate the improperly entered temporary orders and to conduct new proceedings that comply with constitutional and statutory due process requirements. Given the fundamental nature of the rights at stake—including Father's right to his home and access to his children—this extraordinary relief is justified.

Father's pursuit of mandamus relief reflects his understanding that this extraordinary remedy is reserved for situations where trial courts clearly abuse their discretion. His sequential filing of mandamus petitions against different judges involved in his case demonstrates not an attempt to harass the judiciary but rather a methodical pursuit of relief from each instance of judicial error. As his legal knowledge evolved, so too did the sophistication of his mandamus arguments, yet his fundamental request remained consistent: a fair application of established procedural safeguards and a clear explanation for why his life was upended without cause.

## B. PARENTAL RIGHTS AND BEST INTERESTS VIOLATIONS

The temporary orders entered on March 14, 2024, have separated Father from his children's primary residence for over a year without proper consideration of the children's best interests. [[MANDAMUS-KAITCER: APP. 1](#)] This separation was based on questionable allegations of family violence that were insufficient to support an ex-parte protective order on December 14, 2023. [[MANDAMUS-KAITCER: MR. 2.7](#)] The act of allowing Mother to leverage these claims in a settlement agreement rather than prove them is the crux of the issue in this matter.

The court's initial actions have disrupted the parent-child relationship without the procedural safeguards designed to protect both parental rights and children's interests.

### I. Legal Analysis

Texas law explicitly requires that "[t]he 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. This statutory mandate reflects the constitutional dimension of parental rights, which the U.S. Supreme Court has recognized as "perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

The Texas Supreme Court has emphasized in the landmark case *In re C.J.C.*, 603 S.W.3d 804, 807 (Tex. 2020), that "courts must presume that a

fit parent—not the state— determines what is in his or her child's best interest." This presumption can only be overcome through proper procedures that afford parents due process and require clear evidence that limitations on parental rights are necessary to protect the child's best interest.

The Court in *In re C.J.C.* further clarified that this constitutional presumption applies not only in original custody determinations but also in modification proceedings, holding that "the constitutional presumption that a fit parent acts in his child's best interest should apply in a modification proceeding involving a fit parent." *Id.* at 817. This principle was also noted in *In re Scheller*, 325 S.W.3d 640, 643 (Tex. 2010), where the Court held that "the natural right existing between parents and their children is of constitutional dimensions."

The Texas Supreme Court has also emphasized in *In re Derzapf*, 219 S.W.3d 327, 333 (Tex. 2007), that "the relationship between parent and child is constitutionally protected," and that "the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children."

In this case, the court has effectively overridden Father's parental rights without the procedural safeguards necessary to justify such intervention. The court's actions—and subsequent inaction—have

created a situation where Father's relationship with his children has been disrupted for over a year without proper justification or ongoing assessment, allowing the Mother to manipulate the legal process to her own benefit.

## **II. Procedural Remedies**

### **Mandamus Relief**

The violation of Father's parental rights and the court's failure to properly consider the children's best interests warrant mandamus relief. The appropriate remedy would be an order directing the trial court to conduct new proceedings that properly apply the best interest standard and respect Father's constitutional parental rights.

The Texas Supreme Court has specifically held in *In re Derzapp*, 219 S.W.3d 327, 334 (Tex. 2007), that mandamus is appropriate where a trial court's order violates the constitutional presumption that a fit parent acts in his child's best interest. Similarly, in *In re Mays-Hooper*, 189 S.W.3d 777, 778 (Tex. 2006), the Court granted mandamus relief where a trial court's order violated a parent's fundamental right to make decisions concerning the care, custody, and control of her child.

Here, this is precisely what has occurred. Despite consent not being present at the time of rendition, the court rendered an agreed judgement, which was prepared by the opposing side, and is founded in fraud and misrepresentations made to the court, as explained below.

### C. MISREPRESENTATIONS AND FRAUD ON THE COURT

The record reveals several instances of potential misrepresentation to the court:

1. Mother's divorce petition falsely claimed that an active order of protection existed against Father, attempting to waive the statutory 60-day waiting period. [[MANDAMUS-KAITCER: MR. 2.7](#)]
2. The March 14, 2024, temporary orders falsely claimed "as evidenced by the signatures below all parties agree to the terms of this order," despite Father's signature being absent from the document. [[MANDAMUS-KAITCER: APP. 1.1, APP 1.38](#)]
3. The March 14, 2024, associate judge's report was written by opposing counsel rather than the court, raising questions about its authenticity and impartiality. [[MANDAMUS-KAITCER: MR. 18.1](#)]

Father's response to these misrepresentations demonstrates his commitment to truthfulness in legal proceedings. His refusal to sign orders he did not agree with, despite court pressure, reflects his principled stance against participating in misrepresentations to the court. Similarly, his detailed documentation of these misrepresentations in his mandamus petitions reflects his

understanding of the importance of candor to the tribunal and his determination to create an accurate record of the proceedings.

## **I. Legal Analysis**

Texas courts have long recognized that fraud on the court is a serious matter that undermines the integrity of the judicial process.

Misrepresentations to the court— particularly in sworn pleadings or orders—can constitute fraud on the court and may warrant sanctions or other remedial action.

The Texas Supreme Court has specifically addressed fraud on the court in *Browning v. Prostok*, 165 S.W.3d 336, 347 (Tex. 2005), holding that "fraud upon the court occurs where there is deliberate perpetration of a scheme designed to influence the court improperly or to frustrate the judicial machinery." The Court further clarified in *In re E.R.*, 385 S.W.3d 552, 566 (Tex. 2012), that "a judgment may be set aside by bill of review when extrinsic fraud prevented a party from having a fair opportunity to assert his rights at trial."

The misrepresentations in this case are particularly troubling because they appear to have been used to circumvent important procedural safeguards. Mother's false claim about an existing protective order attempted to bypass the statutory waiting period for divorce. The false claim that Father had agreed to the temporary orders attempted to bypass the requirement for his consent to a consent judgment.

As the Texas Supreme Court has recognized, "a judgment obtained by fraud may be set aside by bill of review." *Burnaman v. Heaton*, 240 S.W.2d 288, 291 (Tex. 1951). While this case has not yet reached final judgment, the principle that fraud undermines the validity of court orders applies equally to temporary orders.

The Texas Supreme Court has further emphasized in *In re Meador*, 968 S.W.2d 346, 350 (Tex. 1998), that "the integrity of the judicial process is threatened when a party attempts to gain an advantage in litigation by encouraging or permitting witnesses to testify falsely." Similarly, in *In re Sw. Bell Tel. Co.*, 35 S.W.3d 602, 605 (Tex. 2000), the Court held that "the integrity of the judicial system depends in part on the honesty and forthrightness of the participants." Here, Mother's dishonesty remains the foundation of these proceedings, which extends to outrageous levels that the court should take into its discretion.

## **II. Procedural Remedies**

### **Sanctions**

The apparent misrepresentations to the court may warrant sanctions against the responsible parties, including potentially opposing counsel if they participated in or facilitated these misrepresentations, which here, is relevant.

The Texas Supreme Court has specifically held in *In re Bennett*, 960 S.W.2d 35, 40 (Tex. 1997), that "courts possess inherent power to discipline an

attorney's behavior" when that attorney engages in conduct that "tends to defeat the administration of justice or to derogate from the court's dignity and authority." Similarly, in *In re Sheshtawy*, 154 S.W. 3d 114, 124-25 (Tex. 2004), the Court held that "a court has the inherent power to sanction for abuse of the judicial process that may not be covered by any specific rule or statute." Here, the judicial process has been wholly abused by the mother through false misrepresentations.

### **Vacatur of Orders**

Orders obtained through misrepresentation should be vacated. This would include the temporary orders entered on March 14, 2024, which falsely claimed Father's agreement.

The Texas Supreme Court has specifically held in *PNS Stores, Inc. v. Rivera*, 379 S.W.3d 267, 275 (Tex. 2012), that "a judgment obtained by fraud may be set aside by bill of review." Similarly, in *In re E.R.*, 385 S.W.3d 552, 566 (Tex. 2012), the Court held that "a judgment may be set aside by bill of review when extrinsic fraud prevented a party from having a fair opportunity to assert his rights at trial."

### **Referral for Disciplinary Action**

If the evidence supports a finding that licensed attorneys knowingly participated in misrepresentations to the court, referral to the State Bar of Texas for disciplinary action may be appropriate. Father's pursuit of relief from orders obtained through misrepresentation reflects his understanding



that truthfulness is essential to the proper functioning of the judicial system. His sequential filing of mandamus petitions demonstrates not an attempt to relitigate settled matters but rather a principled response to the use of misrepresentation to obtain judicial orders. Throughout this process, Father has maintained his commitment to truthfulness while appropriately invoking the remedies available when others have failed to meet this standard.

### **Case Dismissal**

Finally, dismissal of this matter should be considered. Mother clearly falsified her affidavit of inability to pay court costs, which pursuant to the Texas Practice and Remedies Code, is grounds for dismissal. Furthermore, this case has not been prosecuted by the opposing side, enabling the trial court to hold a hearing as to why the case should not be dismissed, or allowing the Respondent, Mr. Myers, in this instance, to file a motion for dismissal for want of prosecution, which has already been done in this matter. Rather than adjudicate these issues, the court rather chose to move to final trial on the merits in the midst of Mr. Myers relentless pursuit for relief, leading to the latest recusal proceedings and the fourth concurrent mandamus before this Honorable Court.

## PROCEDURAL CONSIDERATIONS

Several procedural considerations warrant attention to maximize the likelihood of obtaining the extraordinary relief sought. These considerations are grounded in the record and reflect the unique procedural posture of this case, as well as Mr. Myers' evolution as a pro se litigant.

The record establishes that mandamus relief is not merely appropriate but necessary in this case. The Texas Supreme Court has recognized that mandamus is available when a trial court clearly abuses its discretion and the relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004). Both conditions are abundantly satisfied here.

First, the trial court's actions—entering orders without proper consent, failing to follow its own procedural directives, and refusing to rule on pending motions for nearly a year—constitute clear abuses of discretion that cannot be reasonably disputed. These are not close calls or matters of judicial discretion; they represent fundamental departures from basic procedural requirements.

The Texas Supreme Court established in *Walker v. Packer*, 827 S.W.2d 833, 839-40 (Tex. 1992), that "a clear abuse of discretion occurs when a trial court 'reaches a decision so arbitrary and unreasonable as to amount to a

clear and prejudicial error of law.'" The Court further clarified in *In re Columbia Med. Ctr. of Las Colinas, Subsidiary, L.P.*, 290 S.W. 3d 204, 207-08 (Tex. 2009), that a trial court abuses its discretion when it fails to correctly analyze or apply the law.

Second, Father has no adequate remedy by appeal. The temporary orders that removed him from his home and restricted his access to his children are not immediately appealable under Texas law. As the Texas Supreme Court held in *In re Derzapf*, 219 S.W. 3d 327, 334-35 (Tex. 2007), "a party does not have an adequate remedy by appeal when the trial court's order imposes a serious disruption in the parent-child relationship." Moreover, the court's prolonged inaction has effectively denied Father any meaningful opportunity to challenge these orders through the normal appellate process.

By the time a final judgment is entered and an appeal becomes available, Father will have suffered an unreasonable amount of irreparable harm to his relationship with his children, his property rights, and his financial stability that should be resolved before final trial is considered. Between the unopposed summary judgement filed February 22, 2024, the Rule 12 motion that has yet to be resolved, and the unopposed DWOP motion filed, the court below refuses to acknowledge any of these methods that would correct this situation.

Rather, it continues to commit error by ignoring the pressing issues and constantly favoring the opposing party who has failed to prosecute their case.

## CONSOLIDATION OF RELIEF REQUESTS

Given the filing of multiple mandamus petitions addressing different aspects of the same underlying case, consideration should be given to requesting consolidated treatment of these petitions. The record demonstrates that the various judicial actions at issue—from the 322nd Judicial District Court, the 233rd Judicial District Court, and individual judges including Honorable David L. Evans, Honorable Kate Stone, Honorable Kenneth E. Newell, and Honorable Jeff Kaitcer—are interconnected parts of a single pattern of procedural irregularities and due process violations.

Consolidated treatment would allow the reviewing court to see the full picture of the challenges faced by Mr. Myers rather than addressing each incident in isolation. It would also promote judicial economy by avoiding duplicative proceedings and potentially inconsistent rulings.

The Texas Supreme Court has recognized the value of consolidation in complex cases. In *In re Valero Energy Corp.*, 968 S.W.2d 916, 916-17 (Tex. 1998), the Court consolidated multiple mandamus proceedings arising from the same underlying case to promote efficiency and consistency. The statement of facts filed as Exhibit A in Mr. Myers' [Motion to Consolidate](#) in tandem with the latest mandamus paint the full procedural history of the matter.

## EMERGENCY RELIEF PENDING DISPOSITION

The consolidated mandamus record in the [Motion to Consolidate](#) justifies a request for emergency relief pending final disposition of the mandamus petition. Father has been removed from his home since January 16, 2024— over 16 months—based on temporary orders that were procedurally defective and later entered without his consent.

The ongoing harm to his parental rights, property rights, and financial stability cannot be remedied by eventual relief; each day under these improper orders causes additional irreparable harm.

Emergency relief could take the form of a stay of the temporary orders pending final disposition of the mandamus petition, or an order allowing Father to return to his home so that a realistic plan for the children can be effectuated that is in line with their best interests. Such relief would prevent further harm while still preserving the court's ability to make a final determination on the merits. Most importantly, the relief sought by Mr. Myers does not infringe upon the rights of any party – it merely restores the rights that he was divested of at the onset of this matter.

The Texas Supreme Court has recognized the appropriateness of emergency relief in family law cases where fundamental rights are at stake. In *In re Tex. Dep't of Family & Protective Servs.*, 255 S.W.3d 613, 615 (Tex. 2008), the Court granted emergency relief to prevent the continued separation of parents from their children pending resolution of the mandamus

proceeding. Such circumstance is parallel to the benefits of issuing such relief here.

### **POTENTIAL FOR FEDERAL RELIEF**

While the current focus is properly on state court remedies through mandamus, the record would support federal intervention if state remedies prove inadequate. The due process violations documented in this case implicate federal constitutional rights under the Fourteenth Amendment. If state courts fail to provide timely and effective relief, Father could potentially seek relief in federal court through a civil rights action under 42 U.S.C. § 1983 or other appropriate vehicles.

This consideration is particularly relevant given the extraordinary length of time that has already elapsed without meaningful judicial action. If the pattern of delay continues, federal intervention may become not merely an option but a necessity to protect Father's constitutional rights. The U.S. Supreme Court has recognized in *Troxel v. Granville*, 530 U.S. 57, 65-66 (2000), that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children. Similarly, in *Stanley v. Illinois*, 405 U.S. 645, 651 (1972), the Court held that "[t]he private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection."

## **RELIEF SHOULD ISSUE NOW RATHER THAN LATER**

Given the pervasive nature of the procedural defects in this case, piecemeal remedies addressing individual orders or actions may be insufficient. The record would support a request for comprehensive relief that addresses the full range of procedural violations and restores Father to the position he would have occupied absent these violations.

Such relief could include: - Vacating all orders entered without proper notice or consent - Directing the trial court to conduct new proceedings that comply with all procedural requirements - Ordering the immediate return of Father to his home - Requiring expedited consideration of all pending motions - Imposing deadlines for future proceedings to prevent additional delays – or case dismissal given the fraudulent nature that it was initiated, the fundamental errors made at the onset, and the fact that the affidavit of inability to pay was falsified in the divorce petition.

This comprehensive approach would recognize that the breakdown of justice in this case is not limited to isolated incidents but represents a systemic failure that requires an equally systemic remedy. The Texas Supreme Court has recognized the appropriateness of comprehensive relief in cases involving pervasive procedural irregularities. In *In re E.R.*, 385 S.W.3d 552, 566 (Tex. 2012), the Court granted broad relief to address multiple procedural violations in a family law case, including vacating improper orders and directing the trial court to conduct new proceedings.

## MR. MYERS' INTENT AND APPROACH

Throughout this procedural odyssey, Mr. Myers has consistently demonstrated that his intent is not to upset the judiciary or challenge its authority, but simply to seek a lawful explanation for why his life was upended without cause. His approach has been characterized by:

1. **Respect for Judicial Authority:** Despite facing significant procedural irregularities, Mr. Myers has consistently sought relief through proper legal channels rather than defying court orders or engaging in self-help remedies.
2. **Commitment to Self-Education:** When faced with inadequate representation, Mr. Myers took the extraordinary step of educating himself in complex areas of family and procedural law, demonstrating a remarkable evolution from his first mandamus petition to his fourth.
3. **Precision in Relief Requests:** Rather than making broad accusations against the judiciary, Mr. Myers has carefully tailored his relief requests to specific judicial actions and supported them with detailed factual and legal arguments.
4. **Persistence in Seeking Explanation:** Throughout this process, Mr. Myers has consistently sought not just relief but explanation—a



clear articulation of the legal basis for the actions that have so dramatically affected his life.

- 5. Focus on Restoration Rather Than Punishment:** Mr. Myers' relief requests have consistently focused on restoring proper procedure and returning to his home rather than seeking punitive measures against judicial officers.

This approach demonstrates that Mr. Myers is not a vexatious litigant seeking to harass the courts, but rather a citizen earnestly seeking the procedural protections and explanations to which he is entitled. His evolution as a pro se litigant reflects not an attempt to circumvent proper procedure but rather a determined effort to understand and properly invoke the procedural protections that form the foundation of our legal system.

### **The Path Forward: Repair and Restoration**

It is important to emphasize that Mr. Myers holds nothing against anyone involved in this case. He recognizes that people make mistakes, including judges, attorneys, and litigants. His goal is not to assign blame or seek retribution, but to begin the repair process that is so desperately needed for his children and family. While the Mother in this case has abused the legal process and is fundamentally responsible for the irreparable harm, she is the Mother of his children, and her consequences will come later from the appropriate legal remedies. The

requested relief—his return to the family home—would benefit all parties involved:

**The Children:** The children would benefit from stability and the restoration of their relationship with their father in their primary residence. As the Texas Supreme Court recognized in *In re J.F.C.*, 96 S.W.3d 256, 304 (Tex. 2002), "maintaining the parent-child relationship is of paramount importance to the child's welfare and development." Since his removal, the children have been cared for by relatives, and significant financial damage continues to accrue which dampens their future.

**The Judicial System:** Granting the requested relief would restore confidence in the judicial process and demonstrate the system's capacity for self-correction when errors occur. As the Texas Supreme Court noted in *In re Columbia Med. Ctr. of Las Colinas, Subsidiary, L.P.*, 290 S.W.3d 204, 211 (Tex. 2009), "the judicial system as a whole benefits from transparency, openness, and accountability." In this matter, accountability is desperately needed, and granting the relief would begin this long overdue process.

**The Opposing Party:** Even the opposing party would benefit from resolution of this prolonged litigation and the establishment of

clear, lawful parameters for the parties' ongoing relationship. The current state of procedural limbo serves no one's interests, and the increasing damages caused by the opposing party won't just go away because of her continued silence. Dealing with these issues now rather than later would prevent significant damages from continuing to accrue over time.

**Mr. Myers Himself:** Beyond the obvious benefit of returning to his home, Mr. Myers would benefit from closure and the opportunity to move forward with his life and focus on his children rather than litigation and to rebuild what's left of his business which he requires the home to operate, and plan for the future in a way that serves his children's interests. The few months in the beginning of this case that Mr. Myers needed to effectuate the transfer of his business while also maintaining the children's status quo has been thwarted by the Mother's priority of pursuing her extramarital affair. Such actions should not be tolerated by the judiciary, and the record speaks loud and clear regarding these claims. After sixteen months of litigation, Mother has not raised any defense to these claims, nor has her attorney.

Importantly, nobody opposes the requested relief. The record reflects that

the opposing party has failed to prosecute the case for nearly a year, suggesting a lack of genuine opposition to Mr. Myers' return to the family home. This silence is telling—it indicates not strategy but the absence of any lawful justification for the current state of affairs.

Finally, it is crucial to recognize that permitting Mr. Myers to return home would not take away anyone's fundamental rights. To the contrary, it would protect rights—Mr. Myers' property rights, his parental rights, and most importantly, his children's right to maintain a meaningful relationship with their father. As the Texas Supreme Court emphasized in *In re C.J.C.*, 603 S.W.3d 804, 808 (Tex. 2020), "the natural right existing between parents and their children is of constitutional dimensions."

The time has come to acknowledge the errors that have occurred, to repair the damage that has been done, and to restore Mr. Myers to his rightful place in his home and in his children's lives. This is not merely what justice demands—it is what benefits everyone involved in this case and the judicial system as a whole.

## CONCLUSION

The record in this case presents a stark and troubling portrait of justice denied. Charles Dustin Myers has endured a systematic dismantling of his fundamental rights through a series of procedural violations, judicial inactions, and misrepresentations that collectively constitute one of the most distinct breakdowns of justice in Texas history.

The chronology reveals a clear pattern: beginning with his sudden removal from his home on January 16, 2024, with mere hours' notice, continuing through delays and multiple associate judge reports that were quickly thrown together by father's last-minute retainment of counsel, the entry of "agreed" orders without his consent on March 14, 2024, and culminating in nearly a year of complete judicial inaction while he remained displaced from his home and separated from his children's primary residence. At each critical juncture, the court system failed to provide the basic procedural protections that form the foundation of due process.

What distinguishes this case, however, is not merely the severity of the procedural violations but Mr. Myers' extraordinary response to them. When faced with inadequate legal representation, he took the remarkable step of educating himself in complex areas of family and procedural law. His evolution as a pro se litigant—from his [first mandamus petition in 2024](#) to his fifth against Honorable David L. Evans (MANDAMUS-EVANS)—reflects not an attempt to harass the judiciary but rather a methodical, principled pursuit of justice through proper legal channels.

The thematic analysis demonstrates that these failures were not isolated incidents but represented systematic violations across multiple dimensions: due process rights were repeatedly ignored; parental rights were overridden without proper consideration of children's best interests;

misrepresentations to the court undermined the integrity of the judicial process; and prolonged judicial inaction effectively denied any meaningful opportunity for redress. Throughout these violations, Mr. Myers maintained an unwavering commitment to seeking relief through proper legal channels, demonstrating remarkable restraint and respect for judicial authority even as that authority was exercised in ways that upended his life without explanation.

Mr. Myers' remarkable journey from a father suddenly displaced from his home to a sophisticated pro se litigant capable of navigating complex procedural waters stands as a testament to the human capacity for growth and resilience in the face of injustice. Yet it is a journey that should never have been necessary. No citizen should be forced to become a legal scholar simply to obtain the procedural protections and explanations to which they are entitled. The fact that Mr. Myers has risen to this challenge does not diminish the severity of the breakdown of justice he has experienced; rather, it underscores the extraordinary measures to which he has been forced to resort in his pursuit of a simple, fundamental right: to return to his home and receive a lawful explanation for why he was removed from it in the first place. Mr. Myers prays that this situation is resolved before too much more time passes, and hopes that all participants can work together for the children who have been left behind in this matter.

Respectfully submitted,

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PRO-SE RELATOR

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