



NUMBER 13-20-00236-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE TODD WILLIAMS

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Justices Hinojosa, Perkes, and Tijerina
Memorandum Opinion by Justice Hinojosa¹**

Relator Todd Williams filed a petition for writ of mandamus in the above referenced cause through which he contends that the trial court abused its discretion by (1) entering an emergency order and a temporary order regarding possession and access to relator's minor children, and (2) finding relator in contempt of court and awarding attorney's fees to be assessed against relator. Relator further requests emergency relief staying the trial court's orders of February 10, 2020 and April 16, 2020. The Court requested and received

¹ See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so," but "[w]hen granting relief, the court must hand down an opinion as in any other case"); *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

a response to the petition for writ of mandamus from the real party in interest, Elizabeth Williams, who also filed a response to relator's request for emergency relief.

Mandamus is an "extraordinary" remedy. *In re Sw. Bell Tel. Co., L.P.*, 235 S.W.3d 619, 623 (Tex. 2007) (orig. proceeding); see *In re Team Rocket, L.P.*, 256 S.W.3d 257, 259 (Tex. 2008) (orig. proceeding). In order to obtain mandamus relief, the relator must show that the trial court clearly abused its discretion and that the relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding); see *In re McAllen Med. Ctr., Inc.*, 275 S.W.3d 458, 462 (Tex. 2008) (orig. proceeding).

Having examined and fully considered the petition for writ of mandamus, the limited record presented, the response, the reply, and the applicable law, we conclude that the relator has failed to meet his burden to obtain mandamus relief. First, the record is incomplete insofar as it fails to include all the pleadings that engendered the instant dispute. See TEX. R. APP. P. 52.7(a)(1) (requiring the record to contain a certified or sworn copy of every document that is material to the relator's claim for relief and that was filed in any underlying proceeding). Second, to the extent that the relator is challenging the trial court's verbal ruling issued on April 16, 2020, in addition to the written emergency order signed on February 10, 2020, the trial court's oral ruling was not clear, specific, and adequately shown by the record as required for mandamus review. See *In re State ex rel. Munk*, 448 S.W.3d 687, 690 (Tex. App.—Eastland 2014, orig. proceeding); *In re Bledsoe*, 41 S.W.3d 807, 811 (Tex. App.—Fort Worth 2001, orig. proceeding); see also TEX. R. APP. P. 52.3(k)(1)(A) ("The appendix must contain . . . a certified or sworn copy of any order complained of, or any other document showing the matter complained of."). In fact,

the trial court expressed a willingness to revisit some of the issues raised at the April 16, 2020 hearing.

Having so ruled, we note that the issues presented in this petition for writ of mandamus arise from divisive and contentious proceedings and concern the best interests of children in a case involving serious allegations about the children's safety and welfare. It is abundantly clear that these issues are unresolved, and the parties and trial court will be devoting further attention to these significant issues in the immediate future. In this regard, the relator has expressed concerns that the trial court's verbal ruling was based, in part, on the coronavirus pandemic in violation of emergency orders issued by the Texas Supreme Court. *See, e.g., Seventh Emergency Order Regarding COVID-19 State of Disaster*, 597 S.W.3d 501, 501–02 (Tex. 2020). The supreme court has ordered that, for purposes of determining a person's right to possession of and access to a child under a court-ordered possession schedule, the existing trial court order shall control in all instances. *Id.* at 501. "Possession of and access to a child shall not be affected by any shelter-in-place order or other order restricting movement issued by a governmental entity that arises from an epidemic or pandemic, including what is commonly referred to as the COVID-19 pandemic," although "[n]othing . . . prevents parties from altering a possession schedule by agreement if allowed by their court order(s), or courts from modifying their orders on an emergency basis or otherwise." *Id.* at 501–02. We need not further address this concern here, however, because the record before is not sufficiently clear and fails to establish that the trial court's indefinite oral ruling was based solely on the coronavirus pandemic as opposed to other emergency issues presented by the parties. *See id.*

Based on the foregoing, we deny the relator's motion for emergency relief. And, without ruling on the substantive matters raised in this original proceeding, we deny the petition for writ of mandamus without prejudice.

LETICIA HINOJOSA
Justice

Delivered and filed the
10th day of July 2020.