



NUMBER 13-23-00270-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE LIBERTY COUNTY MUTUAL INSURANCE COMPANY

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Benavides and Longoria
Memorandum Opinion by Justice Longoria¹**

On June 29, 2023, relator Liberty County Mutual Insurance Company filed a petition for writ of mandamus through which it asserts that the trial court abused its discretion by denying relator’s motion to dismiss the underlying case for lack of subject matter jurisdiction.

Mandamus is an extraordinary and discretionary remedy. *See In re Allstate Indem.*

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. When granting relief, the court must hand down an opinion as in any other case.”); *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

Co., 622 S.W.3d 870, 883 (Tex. 2021) (orig. proceeding); *In re Garza*, 544 S.W.3d 836, 840 (Tex. 2018) (orig. proceeding) (per curiam); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 138 (Tex. 2004) (orig. proceeding). The relator must show that (1) the trial court abused its discretion, and (2) the relator lacks an adequate remedy on appeal. *In re USAA Gen. Indem. Co.*, 624 S.W.3d 782, 787 (Tex. 2021) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 135–36; *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992) (orig. proceeding). However, when “a trial court issues an order ‘beyond its jurisdiction,’ mandamus relief is appropriate because such an order is void ab initio.” *In re Panchakarla*, 602 S.W.3d 536, 539 (Tex. 2020) (orig. proceeding) (per curiam) (quoting *In re Sw. Bell Tel. Co.*, 35 S.W.3d 602, 605 (Tex. 2000) (orig. proceeding) (per curiam)).

The Court, having examined and fully considered the petition for writ of mandamus, the response filed by Edna Cox Auto Sales, Inc. d/b/a Jerry’s Auto Sales and EGH Financial Inc. a/k/a E.G.H. Financial, Inc., and the applicable law, is of the opinion that relator has not met its burden of proof to obtain mandamus relief. Accordingly, we lift the stay previously imposed in this case. See TEX. R. APP. P. 52.10. We deny the petition for writ of mandamus.

NORA L. LONGORIA
Justice

Delivered and filed on the
13th day of July, 2023.