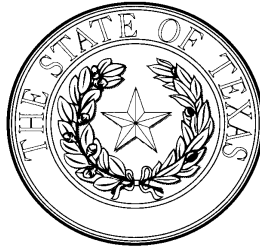


Opinion issued October 22, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00528-CV

IN RE DUSTIN FINCHER, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Dustin Fincher, has filed a petition for a writ of mandamus challenging the trial court's July 2, 2020 order granting the writ of habeas corpus of real party in interest, Naomi K. Gonzalez, and ordering the return of minor children to real party in interest.

We deny relator’s petition for writ of mandamus.¹

Mandamus is an extraordinary remedy that is only available in limited circumstances. *See Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992). “Mandamus issues only to correct a clear abuse of discretion or violation of a duty imposed by law when there is no other adequate remedy by law.” *Id.* at 839 (quoting *Johnson v. Fourth Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985)).

Relator has not demonstrated that the trial court committed an abuse of discretion in issuing the writ of habeas corpus, requiring the return of minor children to real party in interest. *See Schoenfeld v. Onion*, 647 S.W.2d 954, 955 (Tex. 1983) (holding “the grant of the writ of habeas corpus should be automatic, immediate, and ministerial, based upon proof of the bare legal right to possession”); *In re Lau*, 89 S.W.3d 757, 759 (Tex. App.—Houston [1st Dist.] 2002, orig. proceeding) (same).

Accordingly, we deny relator’s petition for writ of mandamus. *See* TEX. R. APP. P. 52.8(a), (d). All pending motions are dismissed as moot.

PER CURIAM

Panel consists of Justices Keyes, Lloyd, and Landau.

¹ The underlying case is *Ex Parte XXXXXX, Children*, Cause No. 2020-31375A, in the 309th District Court of Harris County, Texas, the Honorable Linda Marie Dunson presiding.