

**Petition for Writ of Habeas Corpus Granted and Memorandum Opinion filed
September 20, 2022.**



In The

Fourteenth Court of Appeals

NO. 14-22-00613-CV

IN RE MILTON JOVEL, Relator

**ORIGINAL PROCEEDING
WRIT OF HABEAS CORPUS
280th District Court
Harris County, Texas
Trial Court Cause No. 2020-36036**

MEMORANDUM OPINION

On August 25, 2022, relator Milton Jovel filed a petition for writ of habeas corpus in this Court. *See* Tex. Gov't Code Ann. § 22.221; *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to set aside an order signed August 22, 2022 by the Honorable Barbara J. Stalder, presiding judge of the 280th District Court of Harris County, confining him for criminal contempt due to an alleged violation of a protective order. We ordered relator temporarily released from custody upon posting bond and requested a response, which was filed September 9, 2022. We grant the petition.

BACKGROUND

On August 18, 2020, the trial court signed a protective order (the “Protective Order”) placing restrictions on relator’s interactions with and activities regarding Blanco and their child.¹ On June 28, 2022, Blanco filed a motion to enforce the Protective Order. Her motion contended relator had violated the order by failing to secure and use an exchange service regarding the child on multiple days in 2021 and 2022, as well as by hiring a private investigator to find Blanco’s residence.² The motion contended Blanco’s address had been ordered to be kept confidential.

Following a hearing before the trial court on August 22, 2022, the trial court signed an “Order Clarifying and Holding [Relator] in Contempt for Violating Protective Order and for Commitment to County Jail” (the “Contempt Order”) later that day. The Contempt Order stated Respondent had committed the following two violations of the Protective Order: (1) he “hired a private investigator to locate [Blanco] whose address was to remain confidential”; and (2) he “failed to secure an exchange service for all exchanges of the child subject to the order.” The Contempt Order went on to grant relief for contempt solely for the violation concerning the private investigator. The Contempt Order declared that relator was to be punished for criminal contempt for that violation with a fine of \$500 and confinement in county jail for 180 days. In addition, the Contempt Order held that relator was liable to Blanco for \$6,325 in attorney’s fees, expenses, and costs associated with

¹ This court subsequently issued a memorandum opinion on January 25, 2022 modifying several provisions of the Protective Order while affirming it in all other respects. *Jovel v. Blanco*, No. 14-20-00638-CV, 2022 WL 220251, at *5 (Tex. App.—Houston [14th Dist.] Jan. 25, 2022, no pet.). Those modifications do not affect the merits of relator’s petition.

² Blanco’s response to relator’s petition indicates this is not the residence described in the Protective Order, but is rather a new location Blanco moved to while the Protective Order was being litigated.

the enforcement proceeding, as well as interest on that amount, and it further ordered that relator would be confined in county jail for civil contempt until he paid that amount to Blanco's counsel.³ Relator subsequently filed for habeas relief.

ANALYSIS

The trial court's order holding relator in contempt and ordering his confinement is challengeable in a habeas corpus proceeding. *See In re Hall*, 433 S.W.3d 203, 207 (Tex. App.—Houston [14th Dist.] 2014, orig. proceeding). A writ of habeas corpus will issue if the order is void, such as because it is beyond the trial court's power or because the relator was not afforded due process. *Id.*

The parties' filings both contend that whether the Contempt Order can be upheld in this proceeding depends on whether it validly punished relator for criminal contempt regarding hiring a private investigator. Relator's petition can be resolved solely on the basis of his third issue, which contends the contempt order deprived him of due process. The petition alleges this occurred because, among other things, the Contempt Order did not state which provision of the Protective Order relator violated by hiring a private investigator. We agree. A contempt order must clearly state in what respect the court's earlier order has been violated. *See In re Nesevitch*, 93 S.W.3d 510, 512 (Tex. App.—Houston [14th Dist.] 2002, orig. proceeding) (quoting *Ex parte Shaklee*, 939 S.W.2d 144, 145 (Tex. 1997) (per curiam)) (internal punctuation marks omitted). A contempt order's failure to do so violates due process and renders the order void. *See id.*

³ Although the Contempt Order also ordered relator to pay fees and costs stated in the Protective Order, the Protective Order's text did not award any fees or costs. We interpret the Contempt Order as solely providing a monetary award, and punishing relator for failing to pay same, based on amounts listed in the Contempt Order itself.

The parties' filings both acknowledge the Protective Order does not expressly require Blanco's address to remain confidential, and there is no evidence in the record there was any other order that expressly required Blanco's address to be confidential. Even so, Blanco asserts the Contempt Order may nevertheless be upheld because it listed multiple other provisions of the Protective Order relator ostensibly violated. But the provisions cited by Blanco do not clearly prohibit the investigator-related conduct described and punished by the Contempt Order, and the Contempt Order does not elaborate on how any of those provisions was violated by the investigator-related conduct. Further, because the Contempt Order stated relator had also violated the Protective Order by "fail[ing] to secure an exchange service for all exchanges of the child subject to the [Protective O]rder," it is unclear which provisions of the Protective Order were implicated by the investigator-related conduct alone, relator's failure to secure an exchange service, or both allegations. This overall ambiguity about how the investigator-related conduct in particular violated the Protective Order leaves the Contempt Order deficient. *See In re Luebe*, 404 S.W.3d 589, 595 (Tex. App.—Houston [1st Dist.] 2010, orig. proceeding) ("A contempt order is insufficient if its interpretation requires inferences or conclusions about which reasonable persons might differ."). As relator is entitled to relief on his last issue, there is no need to consider his other issues in this original proceeding.

CONCLUSION

Because the trial court's Contempt Order fails to clearly show which provision of a protective order relator violated when he hired a private investigator, it is void. Accordingly, we grant relator's petition for writ of habeas corpus and vacate the "Order Clarifying and Holding [Relator] in Contempt for Violating Protective Order and for Commitment to County Jail," signed August 22, 2022 by the Honorable

Barbara J. Stalder, presiding judge of the 280th District Court of Harris County. To the extent relator remains in custody of the Sheriff of Harris County pursuant to that order, we further order that he be unconditionally released and discharged from custody. Additionally, we order discharged the bond paid by relator in accordance with this court's order of August 25, 2022.

PER CURIAM

Panel consists of Chief Justice Christopher and Justices Zimmerer and Wilson.