

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-15-00236-CV**

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**IN RE M.N.**

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**Original Proceeding**

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**MEMORANDUM OPINION**

Relator filed a motion for a temporary stay of the trial and a petition for writ of mandamus requesting that the Court order the Judge of the County Court at Law Number 3 of Montgomery County to dismiss a termination case. According to Relator, the original dismissal date was November 24, 2014. On October 20, 2014, the trial court extended the dismissal date to May 23, 2015. According to Relator, the trial on the merits commenced May 18, 2015, a motion for mistrial was granted, and the trial re-commenced on May 22, 2015. Relator filed a motion to dismiss on May 26, 2015, after the trial commenced.

The mandamus record establishes that the trial on the merits commenced before the extended dismissal date. *See* Tex. Fam. Code Ann. § 263.401 (West 2014). Relator did not file a motion to dismiss before the trial on the merits commenced. The motion to dismiss was filed on May 26, 2015, after the trial commenced. Tex. Fam. Code Ann. § 263.402 (West 2014). Therefore, Realtor has not established an abuse of discretion by the trial court. *See* Tex. Fam. Code Ann. §§ 263.401-.402. Furthermore, Relator has not shown that an accelerated appeal would not provide an adequate remedy. *See In re Tex. Dep't of Family & Protective Servs.*, 210 S.W.3d 609, 614 (Tex. 2006) (concluding that an accelerated appeal provided an adequate remedy for trial court's failure to dismiss a suit under section 263.401 of the Texas Family Code). We deny the petition for a writ of mandamus and the motion for temporary relief. *See* Tex. R. App. P. 52.8.

PETITION DENIED.

PER CURIAM

Opinion Delivered June 12, 2015

Before McKeithen, C.J., Kreger and Horton, JJ.