

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-20-00143-CV

IN RE AMANDA BARLOW HENCKEL

Original Proceeding
279th District Court of Jefferson County, Texas
Trial Cause No. F-219,234-B

MEMORANDUM OPINION

Amanda Barlow Henckel filed a petition for a writ of mandamus to compel the trial court to set a hearing on temporary orders in a suit for modification of an order in a suit affecting the parent-child relationship (SAPCR). The real party in interest, Daniel Lamance, filed a response and a motion to dismiss for mootness. He argues this original proceeding is moot because the trial court has set the matter for a hearing on July 22, 2020. Henckel contends the matter is not moot because setting the hearing so far in the future deprives her of due process.

Mandamus will issue only to correct a clear abuse of discretion or the violation of a duty imposed by law when there is no other adequate remedy by law. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004); *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992). The criteria for determining whether a time period is reasonable include the trial court’s actual knowledge of the motion, the trial court’s overt refusal to act, the state of the court’s docket, and the existence of other judicial and administrative matters which must be addressed first. *In re McAllen Hospitals, L.P.*, No. 13-20-00210-CV, at *5, 2020 WL 2611272 (Tex. App.—Corpus Christi May 22, 2020, orig. proceeding) (mem. op.) (ordering judge to rule on motion to dismiss health care liability suit absent showing the pandemic affected the trial court’s ability to rule).

After considering the mandamus petition, the response, the motion to dismiss and the reply to the motion to dismiss, we conclude that the original proceeding is not moot but the relator has not shown a clear abuse of discretion by the trial court. Accordingly, we deny the motion to dismiss for mootness and the petition for a writ of mandamus. *See* Tex. R. App. P. 52.8.

PETITION DENIED.

PER CURIAM

Submitted June 5, 2020
Opinion Issued June 25, 2020

Before Kreger, Horton, and Johnson, JJ.