

IN THE SUPREME COURT OF TEXAS

No. 11-0282

IN THE INTEREST OF E.R., ET AL., CHILDREN, RELATORS

ON PETITION FOR WRIT OF MANDAMUS

JUSTICE LEHRMANN, concurring.

On rehearing, the State contends that the Court's decision that service by publication in this case failed to comport with due process is faulty because L.R. had appeared at several hearings. Normally, if a defendant appears in open court, the appearance has "the same force and effect as if the citation had been duly issued and served as provided by law." TEX. R. CIV. P. 120. In this instance, though, L.R. never appeared in court after the State's petition to terminate her parental rights had been filed. *See* TEX. FAM. CODE § 102.009(a)(7). Accordingly, I concur with the Court's order denying the State's motion for rehearing.

Debra H. Lehrmann
Justice

OPINION DELIVERED: August 31, 2012