

# IN THE SUPREME COURT OF TEXAS

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No. 11-0282

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

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ON PETITION FOR WRIT OF MANDAMUS

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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.

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Debra H. Lehrmann  
Justice

**OPINION DELIVERED:** August 31, 2012