

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-19-00316-CV**

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**In re Sandra Gonzalez**

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**ORIGINAL PROCEEDING FROM TRAVIS COUNTY**

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**MEMORANDUM OPINION**

Relator has filed a petition for writ of mandamus challenging the trial court’s March 7, 2019 order voiding its dismissal of a prior order and a motion for emergency relief seeking to stay the underlying proceedings in the trial court. However, relator has filed a “Motion to Vacate Order Voiding Dismissal” in the trial court, upon which the trial court has not yet ruled. *See In re Coppola*, 535 S.W.3d 506, 510 (Tex. 2017) (noting that right to mandamus relief generally requires predicate request for action by respondent and respondent’s erroneous refusal to act); *In re Perritt*, 992 S.W.2d 444 (Tex. 1999) (explaining that predicate-request requirement has been relaxed on rare occasions when circumstances confirmed that “the request would have been futile and the refusal little more than a formality” (quoting *Terrazas v. Ramirez*, 829 S.W.2d 712, 723 (Tex. 1991))); *see also* Tex. R. Civ. P. 329b(f) (providing that trial court may “sign an order declaring a previous judgment or order to be void because signed after the court’s plenary power had expired” after its plenary power has expired). Relator has not demonstrated that these circumstances present one of the “rare occasions” when this Court

should relax the predicate-request requirement. Accordingly, we deny the petition for writ of mandamus and the motion for emergency relief. *See* Tex. R. App. P. 52.8(a); *id.* R. 52.10.

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Melissa Goodwin, Justice

Before Justices Goodwin, Baker, and Triana

Filed: June 11, 2019