



**NUMBER 13-16-00420-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE ELIZABETH MAURO**

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**On Petition for Writ of Habeas Corpus.**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Garza and Longoria  
Per Curiam Memorandum Opinion<sup>1</sup>**

Relator Elizabeth Mauro filed a petition for writ of habeas corpus in the above cause on July 21, 2016 contending that she is being illegally confined for the alleged violations of a court order pertaining to possession and access to her minor child. By a separately filed motion for emergency relief, she asks that she be released from custody pending the acquisition of the court reporter's transcript of the relevant hearings, a ruling

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<sup>1</sup> See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

on her request to proceed without payment of costs, and a determination regarding the merits of this original proceeding.

The purpose of a habeas corpus proceeding is not to determine the ultimate guilt or innocence of the relator, but only to ascertain whether the relator has been unlawfully confined. *Ex parte Gordon*, 584 S.W.2d 686, 688 (Tex. 1979) (orig. proceeding). In a habeas corpus proceeding, the order or judgment being challenged is presumed to be valid. *In re R.E.D.*, 278 S.W.3d 850, 855 (Tex. App.—Houston [1 Dist.] 2009, orig. proceeding); *In re Turner*, 177 S.W.3d 284, 288 (Tex. App.—Houston [1st Dist.] 2005, orig. proceeding); *Ex parte Occhipenti*, 796 S.W.2d 805, 809 (Tex. App.—Houston [1st Dist.] 1990, orig. proceeding). In order to obtain relief by habeas corpus, the relator must establish that the underlying order is void because of a lack of jurisdiction or because the relator was deprived of liberty without due process of law. *In re Turner*, 177 S.W.3d at 288; *In re Butler*, 45 S.W.3d 268, 270 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). The relator bears the burden of showing that he is entitled to relief. *In re Munks*, 263 S.W.3d 270, 272–73 (Tex. App.—Houston [1st Dist.] 2007, orig. proceeding); *In re Turner*, 177 S.W.3d at 288.

The form and requirements for an original appellate proceeding seeking extraordinary relief, such as a petition for writ of habeas corpus, are delineated by the Texas Rules of Appellate Procedure. See *generally* TEX. R. APP. P. 52. In addition to other requirements, the relator must include a statement of facts supported by citations to “competent evidence included in the appendix or record,” and must also provide “a clear and concise argument for the contentions made, with appropriate citations to authorities and to the appendix or record.” See *generally* TEX. R. APP. P. 52.3. In this

regard, it is clear that relator must furnish an appendix or record sufficient to support the claim for relief. See *id.* R. 52.3(k) (specifying the required contents for the appendix); R. 52.7(a) (specifying the required contents for the record).

Relator's petition for writ of habeas corpus does not meet the foregoing requirements established by the appellate rules. Specifically, for instance, every statement of fact in the petition is not supported by citation to competent evidence included in the appendix or record, *id.* R. 52.3(g); the record does not contain a certified or sworn copy of every document that is material to the relator's claim for relief and that was filed in the underlying proceeding, *id.* R. 52.7(a)(1); and the record does not include a properly authenticated transcript of any relevant testimony from any underlying proceeding, including any exhibits offered in evidence, or a statement that no testimony was adduced in connection with the matter complained, *id.* R. 52.7(a)(2).

The Court, having examined and fully considered the petition for writ of habeas corpus and the applicable law, is of the opinion that relator has not met her burden to obtain relief. See *In re Munks*, 263 S.W.3d at 272–73; *In re Turner*, 177 S.W.3d at 288. Accordingly, relator's petition for writ of habeas corpus and motion for temporary relief are denied without prejudice. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Delivered and filed the  
22nd day of July, 2016.