



NUMBER 13-19-00325-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE MARILU CABRIALES

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Justices Benavides, Hinojosa, and Perkes
Memorandum Opinion by Justice Hinojosa¹**

Relator Marilu Cabriales filed a petition for writ of mandamus in the above cause on June 27, 2019. Through this original proceeding, Cabriales seeks to compel the trial court to vacate its June 14, 2019 order denying a motion to transfer venue. See TEX. FAM. CODE ANN. §§ 155.201, 155.204.

To be entitled to mandamus relief, the relator must show that the trial court abused its discretion and that there is no adequate remedy by appeal. *In re Dawson*, 550 S.W.3d

¹ 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. When granting relief, the court must hand down an opinion as in any other case.”); see also *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

625, 628 (Tex. 2018) (orig. proceeding) (per curiam); *In re Nationwide Ins. Co. of Am.*, 494 S.W.3d 708, 712 (Tex. 2016) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). An abuse of discretion occurs when a trial court’s ruling is arbitrary and unreasonable or is made without regard for guiding legal principles or supporting evidence. *In re Nationwide*, 494 S.W.3d at 712; *Ford Motor Co. v. Garcia*, 363 S.W.3d 573, 578 (Tex. 2012). We determine the adequacy of an appellate remedy by balancing the benefits of mandamus review against the detriments. *In re Essex Ins. Co.*, 450 S.W.3d 524, 528 (Tex. 2014) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 136.

Mandamus is available to compel the mandatory transfer of venue in a suit affecting the parent child-relationship. See *In re Yancey*, 550 S.W.3d 671, 674 (Tex. App.—Tyler 2017, orig. proceeding); *In re Thompson*, 434 S.W.3d 624, 628 (Tex. App.—Houston [1st Dist.] 2014, orig. proceeding); *In re Lawson*, 357 S.W.3d 134, 135–36 (Tex. App.—San Antonio 2011, orig. proceeding). When the trial court fails to transfer venue in such cases, mandamus relief is appropriate because an appeal is inadequate. See *In re Lawson*, 357 S.W.3d at 136 (citing *Proffer v. Yates*, 734 S.W.2d 671, 673 (Tex.1987) (orig. proceeding)); see also TEX. FAM. CODE ANN. § 155.204(h).

The Court, having examined and fully considered the petition for writ of mandamus, the response filed by Francisco Martinez, the record, and the applicable law, is of the opinion that Cabriales has not met her burden to obtain mandamus relief. Accordingly, we deny the petition for writ of mandamus without prejudice to refile, if necessary.

LETICIA HINOJOSA
Justice

Delivered and filed the
10th day of July, 2019.