



NUMBER 13-21-00322-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE JULIE COVINGTON

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

Before Chief Justice Contreras and Justices Hinojosa and Silva
Memorandum Opinion by Justice Hinojosa¹

On October 5, 2021, relator Julie Covington filed a petition for writ of mandamus seeking to compel the trial court to set aside an order striking relator’s petition in intervention in the underling suit regarding the parent-child relationship. See TEX. FAM. CODE ANN. § 102.004(b) (governing standing for grandparents and other persons regarding the managing conservatorship of a minor child).

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.”); *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

Mandamus is an extraordinary and discretionary remedy. See *In re Allstate Indem. Co.*, 622 S.W.3d 870, 883 (Tex. 2021) (orig. proceeding); *In re Garza*, 544 S.W.3d 836, 840 (Tex. 2018) (orig. proceeding) (per curiam); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 138 (Tex. 2004) (orig. proceeding). The relator must show that “(1) the trial court abused its discretion, and (2) the relator lacks an adequate remedy on appeal.” *In re USAA Gen. Indem. Co.*, 624 S.W.3d 782, 787 (Tex. 2021) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 135–36; *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992) (orig. proceeding). The relator bears the burden of proving these two requirements.” *In re H.E.B. Grocery Co.*, 492 S.W.3d 300, 302 (Tex. 2016) (orig. proceeding) (per curiam); *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). In addition to other requirements, the relator must include an appendix and record sufficient to support the claim for relief. See *generally* TEX. R. APP. P. 52.3 (governing the form and contents for a petition); *id.* R. 52.3(k) (specifying the required contents for the appendix); *id.* R. 52.7(a) (specifying the required contents for the record).

The Court, having examined and fully considered the petition for writ of mandamus, the response filed by one of the real parties in interest, the Texas Department of Family and Protective Services (TDFPS),² and the applicable law, is of the opinion that relator has not met her burden to obtain mandamus relief. Both relator and TDFPS support their analysis with citations to an evidentiary hearing; however, relator did not provide this Court with the reporter’s record of that hearing in support of her request for relief. See

² The Court also requested responses to the petition for writ of mandamus from other real parties in interest, Jessica Schaffer, Allen Schaffer, Ashley Osteen Gortemiller, and ad litem Carmen M. Ramirez. However, none of these real parties in interest favored the Court with a response. See TEX. R. APP. P. 52.2, 52.4, 52.8.

id. R. 52.7(a)(2); *In re Bill Heard Chevrolet, Ltd.*, 209 S.W.3d 311, 314 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding). Accordingly, we deny the petition for writ of mandamus without prejudice. See *id.* R. 52.8(a), (d). The relator’s motion to stay, which we previously ordered to be carried with the case, is dismissed as moot. See TEX. R. APP. P. 52.10(b) (“Unless vacated or modified an order granting temporary relief is effective until the case is finally decided.”).

LETICIA HINOJOSA
Justice

Delivered and filed on the
1st day of November, 2021.