



**NUMBER 13-22-00379-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI – EDINBURG**

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**IN RE LOWE’S COMPANIES, INC.**

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**On Petition for Writ of Mandamus.**

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**MEMORANDUM OPINION**

**Before Chief Justice Contreras and Justices Longoria and Tijerina  
Memorandum Opinion by Justice Longoria<sup>1</sup>**

On August 17, 2022, relator Lowe’s Companies, Inc. filed a petition for writ of mandamus through which it asserts, in three issues, that the trial court abused its discretion by refusing to disqualify Paul Garcia as counsel for the real party in interest, Donna K. Scott.

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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. 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*, 827 S.W.2d at 840. “The inappropriate denial of a motion to disqualify is an abuse of discretion for which there is generally no adequate remedy on appeal.” *In re Murrin Bros. 1885, Ltd.*, 603 S.W.3d 53, 57 (Tex. 2019) (orig. proceeding).

This Court, having examined and fully considered the petition for writ of mandamus, the response filed by Scott, and relator’s reply, is of the opinion that relator has not met its burden to obtain mandamus relief. Accordingly, we lift the stay previously imposed in this case. 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.”). We deny the petition for writ of mandamus. See *id.* R. 52.8(a).

NORA L. LONGORIA  
Justice

Delivered and filed on the  
4th day of October, 2022.