

**NO. 12-16-00134-CV**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

*IN RE:* §  
*KEENAN LEWIS,* § *ORIGINAL PROCEEDING*  
*RELATOR* §

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***MEMORANDUM OPINION***

Mahrya Lewis filed an application in the County Court at Law of Houston County requesting a family violence protective order against her husband, Keenan Lewis, on behalf of their minor child. Keenan filed a special appearance and a motion to transfer venue. After a hearing, the trial court denied Keenan’s special appearance and motion to transfer venue, granted Mahrya’s application, and issued the protective order. In this original proceeding, Keenan requests a writ of mandamus directing the respondent to vacate the protective order and transfer the application to Harris County.<sup>1</sup> He also requests emergency relief, including a stay of all county court orders affecting access to the minor child pending our disposition of this proceeding.

**AVAILABILITY OF MANDAMUS**

Mandamus is an extraordinary remedy. *In re Sw. Bell Tel. Co., L.P.*, 235 S.W.3d 619, 623 (Tex. 2007) (orig. proceeding). To obtain mandamus relief, the relator must show that (1) the trial court clearly abused its discretion, and (2) the benefits of mandamus outweigh the detriments to the extent that an appellate remedy is inadequate. *In re Poly-America*, 262 S.W.3d 337, 346-47 (Tex. 2008) (orig. proceeding). “Mandamus will not issue when the law provides

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<sup>1</sup> The respondent is the Honorable Sarah Tunnell Clark, Judge of the Houston County Court at Law.

another plain, adequate, and complete remedy.” *In re Tex. Dep’t of Family and Protective Servs.*, 210 S.W.3d 609, 613 (Tex. 2006) (orig. proceeding).

An interlocutory appeal from a venue ruling is not generally permitted. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 15.064(a) (West 2002); TEX. R. CIV. P. 87(6); *see also In re Team Rocket, L.P.*, 256 S.W.3d 257, 259 (Tex. 2008) (orig. proceeding) (“Once a trial court has ruled on proper venue, that decision cannot be the subject of an interlocutory appeal.”). As a result, a party must usually wait until a final judgment occurs to appeal a venue ruling. *Harding Bars, LLC v. McCaskill*, 374 S.W.3d 517, 519 (Tex. App.–San Antonio 2012, pet. denied). And as family code provision authorizes an interlocutory appeal from a venue determination in a protective order proceeding.

A family violence protective order is appealable unless it is rendered in a divorce suit or a suit affecting the parent-child relationship. TEX. FAM. CODE ANN. § 81.009 (West 2014). The protective order in this case was not rendered in either type of suit. Therefore, it is final and appealable. *See id.*; *Cooke v. Cooke*, 65 S.W.3d 785, 789 (Tex. App.–Dallas 2001, no pet.) (concluding that protective order was a final, appealable order). Because a protective order is a final, appealable order, Keenan had an adequate remedy by appeal to challenge the trial court’s venue ruling. *See McCaskill*, 374 S.W.3d at 519 (venue ruling appealable after final judgment). Thus, he may not attack the ruling by seeking a writ of mandamus, even if that remedy is no longer available. *See In re Tex. Dep’t of Family & Protective Servs.*, 210 S.W.3d at 614; *In re Pannell*, 283 S.W.3d 31, 35 (Tex. App.–Fort Worth 2009, orig. proceeding). Accordingly, we *deny* Keenan’s petition for writ of mandamus and *overrule* his motion for emergency relief as moot.

**JAMES T. WORTHEN**  
Chief Justice

Opinion delivered May 18, 2016.

*Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.*

(PUBLISH)



## COURT OF APPEALS

### TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

#### JUDGMENT

MAY 18, 2016

NO. 12-16-00134-CV

KEENAN LEWIS,

Relator

V.

HON. SARAH TUNNELL CLARK,

Respondent

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#### ORIGINAL PROCEEDING

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ON THIS DAY came to be heard the petition for writ of mandamus filed by **KEENAN LEWIS**, who is the defendant in Cause No. 16CCL-009, pending on the docket of the County Court at Lay of Houston County, Texas. Said petition for writ of mandamus having been filed herein on May 5, 2016, and the same having been duly considered, because it is the opinion of this Court that a writ of mandamus should not issue, it is therefore **CONSIDERED, ADJUDGED** and **ORDERED** that the said petition for writ of mandamus be, and the same is, hereby **DENIED**.

James T. Worthen, Chief Justice.

*Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.*