

NO. 12-17-00358-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE: § *APPEAL FROM THE*
S.E.T.H. AND R.M.R.H., § *COUNTY COURT AT LAW*
CHILDREN § *ANDERSON COUNTY, TEXAS*

MEMORANDUM OPINION

Relator M.H. filed this petition for writ of mandamus contending that Respondent acted without jurisdiction in issuing a temporary order, that a joint order between Respondent and a court in the State of Tennessee is void, and that a Rule 11 Agreement could not prevent the court of continuing exclusive jurisdiction from issuing temporary orders in the modification suit. We conditionally grant the writ.¹

BACKGROUND

The underlying suit was a divorce proceeding that originated in the 317th District Court of Jefferson County, Texas. On October 16, 2014, the district court entered a final decree of divorce in the case, finding that the court had jurisdiction of the case and of the parties, granting M.H. and E.H. a divorce, establishing a parenting plan involving the parties' children, S.E.T.H. and R.M.R.H., and appointing both parents as joint managing conservators of the children. More specifically, the district court ordered that M.H. have the exclusive right to designate R.M.R.H.'s primary residence within the State of Tennessee. The district court ordered that the parties "shall not remove [R.M.R.H.] from within the State of Tennessee for the purpose of changing the primary residence of [R.M.R.H.] until modified by further order of the court of continuing

¹ The Real Party in Interest is E.H. The Respondent is the Honorable B. Jeff Doran, Judge of the County Court at Law of Anderson County, Texas.

exclusive jurisdiction or by written agreement signed by the parties and filed with the court.” E.H. was allowed possession of R.M.R.H for thirty consecutive days beginning on June 1 and ending on July 1 each summer.

Beginning in June 2017 until November 8, 2017, both parties filed numerous pleadings in the Jefferson County district court, the County Court at Law of Anderson County, Texas, and a state court in Tennessee. On June 30, 2017, one day before E.H.’s summer possession with R.M.R.H. ended, the Anderson County court issued a temporary restraining order and order setting hearing for temporary orders. The Anderson County court ordered that M.H. be excluded from possession of or access to R.M.R.H. and set a hearing on the temporary orders to determine whether the temporary restraining order should be made a temporary injunction and E.H. should be appointed temporary sole managing conservator of the child. On the same date, E.H. filed a petition to modify the parent-child relationship in the Jefferson County district court. He requested that he be appointed as the person with the right to designate the primary residence of both children because they expressed the desire to reside with him. On July 3, 2017, E.H. filed a motion to transfer in the Jefferson County district court, stating that R.M.R.H.’s principal residence is not Jefferson County and that she had been residing outside the county for more than six months prior to the filing of the motion.

On July 11, 2017, M.H. filed a petition for registration and modification of foreign decree and petition for contempt in Rutherford County, Tennessee. She stated that after the final decree, she and R.M.R.H. moved to Tennessee. M.H. requested that the Tennessee court register the final decree, accept jurisdiction over the parties and R.M.R.H., and modify the final decree. On July 14, she filed a special appearance and a plea to the jurisdiction with the Anderson County court. She objected to its jurisdiction over her or R.M.R.H. and stated that the final decree of divorce in the Jefferson County district court established Tennessee as the child’s home state, that a motion to modify was pending in the Tennessee court, and that the Tennessee court had jurisdiction. Moreover, on that same date, M.H. filed a petition for writ of habeas corpus to recover possession of R.M.R.H. in the Anderson County court. She stated that she was entitled to possession of the child pursuant to the final decree entered in Jefferson County.

Also on July 14, E.H., M.H., and their attorneys entered into a handwritten Rule 11 Agreement that was filed in Anderson County. The Agreement stated as follows:

1. Neither party is waiving any jurisdiction challenges by entering into the terms of this agreement.
2. [R.M.R.H.] shall temporarily remain in the possession of her father, [E.H.], until such time as modified by subsequent agreement or order of [a] court with jurisdiction.
3. Jeffrey L. Coe, attorney for [E.H.,] agrees to accept service on behalf of [E.H.] on the petition filed by [M.H.] in Tennessee with an agreed service date of July 17, 2017.
4. The parties agree that the Anderson County Court at Law may proceed to contact the court in Tennessee to address the multistate/simultaneous proceedings for temporary orders for [the] protection of the child [] between Texas and Tennessee.
5. [Struck out.]
6. [E.H.] will continue to have [R.M.R.H.] taken for psychiatric/psychological treatment and both parties shall follow all recommendations of the treatment providers. All parties shall receive copies of all medical records and reports of all treating medical providers.
7. Neither party is waiving their right to appeal any subsequent decisions or orders of the court.

Subsequently, on July 20, 2017, the Anderson County court and the Tennessee court entered into a “Joint Order,” finding that jurisdiction was proper in Anderson County. Further, the Joint Order found that the Tennessee court should “yield” its jurisdiction over the parties and the subject matter of the litigation in favor of the Anderson County court which “shall have jurisdiction to finally decide all issues.”

Over the next two months, the parties filed a flurry of pleadings in the Jefferson County district court and the Anderson County court. According to M.H.’s pleadings, she requested that the Jefferson County district court decline jurisdiction and opposed E.H.’s motion to transfer the case to Anderson County. Further, E.H. filed a notice of nonsuit regarding his suit in the Jefferson County district court. Later, M.H. filed a petition for writ of habeas corpus in the Jefferson County district court to recover possession of the child. Accordingly, the Jefferson County district court issued a writ of attachment, ordering any sheriff within the State of Texas to take the body of R.M.R.H. and deliver her into the possession of M.H. and produce her at a hearing in September 2017. However, E.H. filed an application for a restraining order in Anderson County, stating that the writ of attachment was issued even though there was a “preexisting order for maintenance of the suit and jurisdiction in Anderson County.” Thereafter, the Anderson County court issued a temporary restraining order, stating that the writ of attachment initiated by the Jefferson County district court was in direct defiance to the “existing

court order.” The Anderson County court ordered that M.H. and the Anderson County sheriff be restrained from executing the writ of attachment issued by the Jefferson County district court.²

On November 8, M.H. filed a petition to modify the parent-child relationship in the Jefferson County district court. She stated that the court had continuing exclusive jurisdiction of the suit, that the child’s home state was Tennessee, and that a Texas court did not have jurisdiction over a child-custody matter involving the child. However, she further stated that if the Texas court determined that Tennessee had declined jurisdiction or was not a more appropriate forum, then the Jefferson County district court should proceed with jurisdiction. She also filed a petition for writ of attachment for the person of R.M.R.H., stating that E.H.’s continued possession of the child would create, and was creating, a threat to the child’s emotional wellbeing.

That same day, the Jefferson County district court issued a temporary restraining order and order setting a hearing for temporary orders, restraining E.H. from hiding or secreting R.M.R.H. from M.H. and ordering E.H. to appear before the court on November 16, 2017. The district court also issued a writ of attachment, ordering any sheriff within the State of Texas to take the body of R.M.R.H. and deliver her into the possession of M.H. However, on that same date, the Anderson County court issued a temporary restraining order, again ordering, restraining, and enjoining M.H., the Anderson County sheriff, or any other law enforcement office from executing the Jefferson County district court’s writ of attachment of R.M.R.H. According to the order, the writ of attachment would be in “direct defiance to the existing court order.” This original proceeding followed.

² On September 20, 2017, E.H. filed a petition for writ of mandamus with the Ninth Court of Appeals in Beaumont, Texas, requesting the court to issue a writ of mandamus directing the Jefferson County district court to vacate its September 2017 order to recover possession of R.M.R.H. and transfer the case to the Anderson County court. The court of appeals conditionally granted relief, finding that M.H.’s writ of habeas corpus filed in the Anderson County court was active when she filed a writ of habeas corpus in the Jefferson County district court. Thus, the court determined, the court where the writ of habeas corpus was filed first maintained dominant jurisdiction. Accordingly, the court ordered the Jefferson County district court to vacate its September 15, 2017, order. However, the court refused to order the Jefferson County district court to transfer the case to the Anderson County court because E.H. filed a nonsuit in the Jefferson County district court. See *In re Houghton*, No. 09-17-00348-CV, 2017 WL 4682177, at *2 (Tex. App.—Beaumont Oct. 19, 2017, orig. proceeding) (mem. op.).

AVAILABILITY OF MANDAMUS

Mandamus relief is available when, under the circumstances of the case, the facts and law permit the trial court to make but one decision—and the trial court has refused to make that decision—and remedy by appeal to correct the ruling is inadequate. *Proffer v. Yates*, 734 S.W.2d 671, 673 (Tex. 1987) (orig. proceeding); see also *In re Green*, 385 S.W.3d 665, 668 (Tex. App.—San Antonio 2012, orig. proceeding) (citing *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding)). Because temporary orders are not appealable, mandamus is an appropriate remedy when a trial court abuses its discretion in issuing temporary orders in a suit affecting the parent-child relationship. See *In re Derzapf*, 219 S.W.3d 327, 335 (Tex. 2007) (orig. proceeding); see also *In re Knotts*, 62 SW.3d 922, 923 n.1 (Tex. App.—Texarkana 2001, orig. proceeding).

Specifically, the Texas Supreme Court has held that mandamus review is appropriate in child custody cases where there is a jurisdictional dispute. *In re Green*, 352 S.W.3d 772, 774 (Tex. App.—San Antonio 2011, orig. proceeding); see *Geary v. Peavy*, 878 S.W.2d 602, 603 (Tex. 1994) (orig. proceeding). This is due to the unique and compelling circumstances presented when the trial court decides issues pertaining to child custody. See *Geary*, 878 S.W.2d at 603; see also *In re Derzapf*, 219 S.W.3d at 334 (exceptional circumstances presented by challenge to temporary orders in suit for access to children supports availability of mandamus review). Mandamus may also be appropriate to review issues pertaining to standing in matters arising from temporary orders issued under the Texas Family Code. See, e.g., *In re Scheller*, 325 S.W.3d 640, 642 (Tex. 2010) (orig. proceeding) (per curiam); *In re Lewis*, 357 S.W.3d 396, 403 (Tex. App.—Fort Worth 2011, orig. proceeding); *In re Smith*, 262 S.W.3d 463, 467 (Tex. App.—Beaumont 2008, orig. proceeding). Further, a writ of mandamus is an appropriate means to require a trial court to comply with the Family Code’s jurisdictional requirements. *Powell v. Stover*, 165 S.W.3d 322, 324 (Tex. 2005) (orig. proceeding); *In re Forlenza*, 140 S.W.3d 373, 379 (Tex. 2004) (orig. proceeding); *Geary*, 878 S.W.2d at 603.

JURISDICTION

In her first issue, M.H. argues that the Anderson County court acted without jurisdiction when it issued its temporary restraining order on November 8, 2017, and, consequently, the order is void and should be vacated. In her second issue, M.H. argues that even if the Anderson

County court had temporary jurisdiction, it abused its discretion in issuing the November 8, 2017, temporary restraining order without an adequate legal or factual basis and in “interference” with the Jefferson County district court’s continuing, exclusive jurisdiction. In her fourth issue, M.H. argues that the “Joint Order” is void and should be vacated. In her fifth issue, she contends that the Rule 11 Agreement expired on November 8, 2017, and should not be used as a basis to prevent the court of continuing, exclusive jurisdiction from issuing temporary possession orders in the modification suit.³

Applicable Law

A court acquires continuing, exclusive jurisdiction over matters in a suit affecting the parent-child relationship on the rendition of a final order. TEX. FAM. CODE ANN. § 155.001(a) (West Supp. 2017). A court with continuing, exclusive jurisdiction may exercise its jurisdiction to modify its order regarding managing conservatorship, possessory conservatorship, possession of and access to the child, and support of the child. *Id.* § 155.003(a) (West 2014). If a court of this state has acquired continuing, exclusive jurisdiction, no other court of this state has jurisdiction of a suit with regard to that child except as provided by Chapter 155. *Id.* § 155.001(c) (West Supp. 2017).

However, a court may lose continuing, exclusive jurisdiction to modify its order if (1) an order of adoption is rendered after the court acquired continuing, exclusive jurisdiction of the suit; (2) the parents of the child have remarried each other after the dissolution of a previous marriage between them and file a suit for the dissolution of their subsequent marriage; or (3) another court assumed jurisdiction over a suit and rendered a final order based on incorrect information received from the vital statistics unit that there was no court of continuing, exclusive jurisdiction. *Id.* § 155.004(a) (West Supp. 2017). Further, a court has exclusive, continuing jurisdiction over a child custody determination until (1) a court of this state determines that neither the child, nor the child and one parent, have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child’s care, protection, training, and personal relationships, or (2) a court of this state or a court of another

³ In her third issue, M.H. contends that the Anderson County court should be prohibited from holding the scheduled temporary hearing on November 20, 2017 because it was acting without jurisdiction to do so. She also filed a request for emergency temporary relief, requesting that this court stay the November 20, 2017, temporary hearing in the Anderson County court. We granted M.H.’s motion for temporary relief, and need not address issue three. *See* TEX. R. APP. P. 47.1.

state determines that the child and the child's parents do not presently reside in this state. *Id.* § 152.202(a) (West 2014).

A court of this state may not exercise its continuing, exclusive jurisdiction to modify possession of or access to the child if each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction of the suit. *Id.* § 155.003(c) (2) (West 2014). However, a court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse. *Id.* § 152.204(a) (West 2014). In such a case, the court is empowered to act only on a short term, temporary, emergency basis when the potential for immediate harm exists. *In re Salminen*, 492 S.W.3d 31, 40 (Tex. App.–Houston [1st Dist.] 2016, no pet.). The exercise of jurisdiction under section 152.204 is reserved for extraordinary circumstances. *Id.*; *Saavedra v. Schmidt*, 96 S.W.3d 533, 545 (Tex. App.–Austin 2002, no pet.); *In re Marriage of Lai*, 333 S.W.3d 645, 649–50 (Tex. App.–Dallas 2009, orig. proceeding).

When a court lacks subject matter jurisdiction over a proceeding, any orders it renders in that proceeding are void. See *State ex rel. Latty v. Owens*, 907 S.W.2d 484, 485 (Tex. 1995). An order that the trial court had no power or jurisdiction to enter is void. *Urbish v. 127th Judicial Dist. Court*, 708 S.W.2d 429, 431 (Tex. 1986) (orig. proceeding). When an order is void, relator is not required to show the lack of an adequate appellate remedy, and mandamus relief is appropriate. *In re Vaishangi, Inc.*, 442 S.W.3d 256, 261 (Tex. 2014) (orig. proceeding). “Mandamus is generally proper if a trial court lacks subject matter jurisdiction over the underlying proceeding, and in such a case, a relator need not establish that she lacks an adequate remedy by appeal.” *In re St. Thomas High Sch.*, 495 S.W.3d 500, 514 (Tex. App.–Houston [14th Dist.] 2016, orig. proceeding); see also *In re John G. and Marie Stella Kenedy Memorial Foundation*, 315 S.W.3d 519, 522 (Tex. 2010) (orig. proceeding) (because order was void due to trial court's lack of jurisdiction, mandamus relief was appropriate without a showing that the relators lack an adequate appellate remedy).

Analysis

First, we must determine which Texas court has continuing, exclusive jurisdiction over the matters in connection with the child, R.M.R.H., in this case. As noted above, a court

acquires continuing, exclusive jurisdiction over matters in a suit affecting the parent-child relationship in connection with a child on the rendition of a final order. *See* TEX. FAM. CODE ANN. § 155.001(a). Here, the Jefferson County district court rendered a final order in this case, a final decree of divorce on October 16, 2014. That final order also established a parenting plan and provided for managing conservatorship and the possession of, and access to, the parties' children. Thus, the Jefferson County district court acquired continuing, exclusive jurisdiction over matters in connection with the child, R.M.R.H. *See id.* § 155.001(a).

Next, we must determine whether the Jefferson County district court lost its continuing, exclusive jurisdiction. Although E.H. filed a motion to transfer in the Jefferson County district court, he nonsuited that pleading before the court's hearing on the motion. Therefore, E.H. did not effect a transfer of the case from the Jefferson County district court to the Anderson County court. Nor did the Jefferson County district court statutorily lose its continuing, exclusive jurisdiction to modify its order. The child was not adopted, the parents did not remarry each other, and another court did not assume jurisdiction and render a final order based on incorrect information that there was no court of continuing, exclusive jurisdiction. *See id.* § 155.004(a). Nor did any court of this state determine that neither the child, nor the child and one parent, had a significant connection with this state, or that the child or the child's parents did not presently reside in this state. *See id.* § 152.202(a).

Nonetheless, the Anderson County court may have acquired temporary emergency jurisdiction over the matters in connection with the child. As also noted above, a court of this state may acquire temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse. *See id.* § 152.204(a). The court is empowered to act only on a short term, temporary, emergency basis when the potential for immediate harm exists, and it is reserved for extraordinary circumstances. *See In re Salminen*, 492 S.W.3d at 40; *Saavedra*, 96 S.W.3d at 545; *In re Marriage of Lai*, 333 S.W.3d at 649–50.

Upon E.H.'s applications, the Anderson County court issued temporary restraining orders on June 30, 2017, September 12, 2017, and November 8, 2017. All these orders restrained M.H. from possession of, or access to, the child, R.M.R.H. Moreover, the September and November temporary restraining orders mandated that M.H. and the Anderson County sheriff be restrained

from executing the writs of attachment of the child issued by the Jefferson County district court. However, none of the conditions justifying the Anderson County court's temporary emergency jurisdiction over the child are met. First, E.H. did not appear to ask the Anderson County court to exercise temporary emergency jurisdiction to modify the child custody order. E.H. also failed to show that the child had been abandoned or that she was subjected to or threatened with mistreatment or abuse necessitating an order to protect her. Instead, E.H. stated that he will suffer "immediate and irreparable injury, loss, or damage" if the child is removed from her current residence with him. Finally, section 152.204 does not contemplate *conferring* "temporary emergency jurisdiction" on a Texas state court when another Texas state court retains continuing, exclusive jurisdiction. *See* TEX. FAM. CODE ANN. § 152.204(a), (c), (d). Rather, by its express terms, the statute provides for only the *exercise* of temporary emergency jurisdiction in this state when the court of another state has continuing, exclusive jurisdiction. *See id.*; *In re Salminen*, 492 S.W.3d at 41 (recognizing "any order under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction"). Thus, the Anderson County court did not properly exercise temporary emergency jurisdiction, if any, over matters in connection with the child.

Accordingly, the Jefferson County district court retained continuing, exclusive jurisdiction over matters in connection with the child, R.M.R.H. A court with continuing, exclusive jurisdiction may exercise its jurisdiction to modify its final order regarding managing conservator, possessory conservatorship, or possession of and access to the child, and no other court of this state has jurisdiction of a suit with regard to that child. *See* TEX. FAM. CODE ANN. §§ 155.001(c), 155.003(a). That is, when one court has continuing, exclusive jurisdiction over a matter, any order or judgment issued by another court pertaining to the same matter is void. *See In re C.G.*, 495 S.W.3d 40, 44-45 (Tex. App.—Corpus Christi 2016, pet. denied); *Celestine v. Dep't of Fam. & Protective Svcs.*, 321 S.W.3d 222, 229-30 (Tex. App.—Houston [1st Dist.] 2010, no pet.); *In re Aguilera*, 37 S.W.3d 43, 48-53 (Tex. App.—El Paso 2000, orig. proceeding).

Because the Jefferson County district court retained continuing, exclusive jurisdiction, no other court of this state had jurisdiction to modify its final order regarding possession of, or access to, that child. *See* TEX. FAM. CODE ANN. §§ 155.001(c), 155.003(a). Thus, the Anderson County court had no jurisdiction to modify the Jefferson County district court's final order

regarding possession of, or access to, the child. See *State ex rel. Latty*, 907 S.W.2d at 485. Accordingly, the Anderson County temporary restraining orders and, more particularly, the order issued on November 8, 2017, in connection with the child, is, and are, void. See *id.*; *In re C.G.*, 495 S.W.3d at 44-45; *Celestine*, 321 S.W.3d at 229-30; *In re Aguilera*, 37 S.W.3d at 48-53.

Nonetheless, we must also consider the effect of the Rule 11 Agreement between the parties and the “Joint Order” between the Anderson County court and Tennessee court as to the Jefferson County district court’s continuing, exclusive jurisdiction. Regarding the Rule 11 Agreement, we first note that parties cannot confer or waive jurisdiction by consent or agreement. See *In re W.L.W.*, 370 S.W.3d 799, 803 (Tex. App.—Fort Worth 2012, orig. proceeding); *Claxton v. (Upper) Lake Fork Water Control*, 220 S.W.3d 537, 541 (Tex. App.—Texarkana 2006, no pet.). Here, the terms of the Rule 11 Agreement stated that “[n]either party is waiving any jurisdiction challenges by entering into the terms of this agreement.” Thus, the parties did not attempt to confer jurisdiction upon the Anderson County court or waive the Jefferson County district court’s continuing, exclusive jurisdiction.

Moreover, the express terms of the Rule 11 Agreement stated that R.M.R.H. would “temporarily remain in the possession of her father, [E.H.], until such time as modified by subsequent agreement or order of [a] court with jurisdiction.” As noted above, the Jefferson County district court acquired, and retained, continuing, exclusive jurisdiction over matters in connection with the child. On November 8, 2017, the Jefferson County district court issued a temporary restraining order and writ of attachment, ordering that E.H. be restrained from hiding or secreting R.M.R.H. from M.H. and ordering any sheriff or constable within the State of Texas to take the body of R.M.R.H. and deliver her into the possession of her mother, M.H. Further, the Jefferson County district court set a hearing on temporary orders and ordered that the child be produced at the hearing to determine the right of possession of the child. Because the Jefferson County court modified the Rule 11 Agreement by its temporary restraining order and writ of attachment, temporary possession of the child, R.M.R.H., by E.H. pursuant to the Rule 11 Agreement expired or became void. Thus, the Rule 11 Agreement had no effect on the Jefferson County district court retaining its continuing, exclusive jurisdiction of matters in connection with the child.

Regarding the “Joint Order” between the Anderson County court and the Tennessee court, we have already determined that the Anderson County court never acquired continuing,

exclusive jurisdiction over matters in connection with the child, nor did it have temporary emergency jurisdiction. M.H. attempted to register the Jefferson County district court's final decree of divorce with the Tennessee court, stating that she and R.M.R.H. had lived in Tennessee since the rendition of the final decree of divorce, and requesting that the Tennessee court accept jurisdiction over the parties and the child. However, the Tennessee court never accepted jurisdiction over the parties or the child.

As already noted above, when one court has continuing, exclusive jurisdiction over a matter, any order or judgment issued by another court pertaining to the same matter is void. See *In re C.G.*, 495 S.W.3d at 44-45; *Celestine*, 321 S.W.3d at 229-30; *In re Aguilera*, 37 S.W.3d at 48-53. Because the Anderson County court did not have continuing, exclusive jurisdiction over matters in connection with the child, it had no authority to confer with the Tennessee court. Moreover, the Anderson County court had no jurisdiction to modify the Jefferson County district court's final order or determine that it had jurisdiction to "finally decide all issues." See *State ex rel. Latty*, 907 S.W.2d at 485. Because neither the Anderson County court nor the Tennessee court had the authority to determine jurisdiction over matters in connection with the child or issue an order that conflicted with the Jefferson County district court's continuing, exclusive jurisdiction, the "Joint Order" is void. See *id.*; *In re C.G.*, 495 S.W.3d at 44-45; *Celestine*, 321 S.W.3d at 229-30; *In re Aguilera*, 37 S.W.3d at 48-53.

CONCLUSION

The Anderson County court issued a temporary restraining order and order setting hearing on application for temporary injunction on November 8, 2007. However, we have determined that the Anderson County court did not have jurisdiction to do so and that the temporary restraining order, and any order setting a hearing regarding that order, is void. Mandamus is appropriate to require the Anderson County court to comply with the Family Code's jurisdictional requirements. See *Powell*, 165 S.W.3d at 324; see also *In re Green*, 352 S.W.3d at 774. Accordingly, we **conditionally grant** Relator's petition for writ of mandamus. We direct the Anderson County court to **vacate** its November 8, 2017, temporary restraining order restraining and enjoining M.H., the Anderson County sheriff, and any other law enforcement officer in the State of Texas from executing the Jefferson County district court's writ of attachment for the child, R.M.R.H. We also direct the Anderson County court to **vacate**

its order for M.H., the Anderson County sheriff, and any other law enforcement officer in the State of Texas to appear for a show cause hearing. We are confident that, within *fifteen days* of this opinion and order, Respondent will issue an order vacating the temporary restraining order and show cause hearing. The writ will issue only if he fails to do so. Our stay of November 16, 2017 is *lifted*.

BRIAN HOYLE
Justice

Opinion delivered February 6, 2018.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

ORDER

FEBRUARY 6, 2018

NO. 12-17-00358-CV

IN RE: S.E.T.H. AND R.M.R.H., CHILDREN

Appeal from the County Court at Law
of Anderson County, Texas (Tr.Ct.No. CCL-17-15607)

ON THIS DAY came to be heard the petition for writ of mandamus filed by M.H.; who is the relator in Cause No. CCL-17-15607, pending on the docket of the County Court at Law of Anderson County, Texas. Said petition for writ of mandamus having been filed herein on November 16, 2017, and the same having been duly considered, because it is the opinion of this Court that the petition for writ of mandamus be, and the same is, **conditionally granted**.

We direct the trial judge to vacate his temporary restraining order of November 8, 2017, restraining and enjoining M.H., the Anderson County sheriff, and any other law enforcement officer in the State of Texas from executing the Jefferson County district court's writ of attachment for the child, R.M.R.H. We also direct the Anderson County court to **vacate** its order for M.H., the Anderson County sheriff, and any other law enforcement office in the State of Texas to appear for a show cause hearing. We are confident that, within *fifteen days* of this opinion and order, Respondent will issue an order vacating the temporary restraining order and show cause hearing.

The writ will not issue unless the **HONORABLE B. JEFFERY DORAN** fails to comply with this Court's order *within fifteen (15) days* from the date of this order.

It is further ORDERED that all costs of this proceeding shall be adjudged against the party incurring same.

Brian Hoyle, Justice.

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