

NO. 15-0098

IN THE SUPREME COURT

OF TEXAS

IN RE C.T. and T.T.,

Realtors

From the Fifth Court of Appeals at Dallas, Texas

PETITION FOR WRIT OF MANDAMUS

Cecilia M. Wood,
Attorney and Counselor at Law, P.C.
State Bar No. 21885100
Capitol Center
919 Congress, Suite 830
Austin, Texas 78701
Tel: 512-708-8783
Fax: 512-708-8787
Cecilia@ceciliawood.com
ATTORNEY FOR RELATORS,
C.T. and T.T.

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IDENTITY OF PARTIES AND COUNSEL

Relators, C.T. and T.T.

Appellate Counsel for Relators:

Cecilia M. Wood,
Attorney and Counselor at Law, P. C.
Capitol Center
919 Congress Avenue, Suite 830
Austin, Texas 78701
Telephone No.: 512-708-8783
Facsimile No.: 512-708-8787
State Bar No. 21885100
Cecilia@ceciliawood.com

Trial Counsel for Relators*

Kris Balekian Hayes
Balekian Hayes, PLLC
4144 North Central Expressway,
Suite 370
Dallas, Texas 75204
Telephone No.: 214-828-2800
Facsimile No.: 214-827-9671
State Bar No. 24031719
kris@bh-pllc.com

Respondent:

The Honorable Tena Callahan
302nd Judicial District Court
George L. Allen, Sr. Courts Building
600 Commerce Street, Suite 440
Dallas, Texas 75202

Real Party in Interest: Texas Department of Family and Protective Services

Trial Counsel:

Ms. Sandre Streete-Moncriffe
Assistant District Attorney
Dallas County District Attorney's Office
2600 Lone Star, LB 22
Dallas, Texas 75212
Telephone No: 214-213-3120
Facsimile No.: 214-653-6615
State Bar No.:24025543
Sandre.Moncriffe@dallascounty.org

Real Party in Interest: I.H.

Trial Counsel:

Mr. Charles Vaughn
Dallas County Public Defender's Office
George L. Allen Sr. Courts Building
600 Commerce Street
4th Floor, Room 465G
Dallas, Texas 75202
Telephone No.: 214-653-6153
Facsimile No: 214-653-7993

Guardian Ad Litem for Children

Ms. Delia Gonzales
2213 Boll St
Dallas, Texas 75204
Telephone No.: 214-941-4298
Facsimile No.: 214-941-4218
State Bar No. 2034461
delia@deliagonzaleslaw.com

New Alleged Biological Father, E.A.

Current attorney:

La Deitra D. Adkins
2704 Routh Street, Suite 1
Dallas, Texas 75201
Telephone: (214) 901-2600
Facsimile No.: (214) 960-4560
State Bar No.: 24026763
ladeitra@adkinsfamilylaw.com

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CASE NO. _____

IN RE: C.T. and T.T.,

Relators

RELATORS' PETITION FOR WRIT OF MANDAMUS

Relators, C.T. and T.T., submit this petition for writ of mandamus complaining of the orders of the Honorable Tena Callahan, presiding judge of the 302nd Judicial District Court of Dallas County, Texas and the subsequent opinion of the Fifth Court of Appeals in Dallas, denying mandamus relief. (*Appendices A, B, and C*). The Texas Department of Family and Protective Services, (hereinafter “CPS”) and I.H., the mother of I.C. are the Real Parties in Interest. E.A., the current alleged biological father of I.C., was not a party to the suit at the time of the hearing that gives rise to this Petition for Mandamus.

STATEMENT OF THE JURISDICTION

This Court has jurisdiction to issue a writ of mandamus under the [Tex. Const. art. V, § 3](#) and [Tex. Gov't Code Ann. § 22.002 \(West\)](#).

The petition for writ of mandamus was first filed in the Fifth Court of Appeals, which denied the relief requested. See [Tex. R. App. P. 52.3\(e\)](#); *Appendix C*.

STATEMENT OF THE CASE

The underlying suit seeks to have CPS named as the permanent managing conservator of I.C. and to terminate the parent-child relationship between I.C. and the birth parents, I.H. and whoever is finally determined to be biological father of I.C.

The Respondent is the Honorable Tena Callahan, presiding judge of the 302nd Judicial District Court of Dallas County, Texas.

The orders complained of by Relators are the Temporary Order entered in Cause Number 13-21227-Z-265 reflecting the Court's ruling on January 7, 2014 and the order rendered on June 30, 2014, extending the dismissal deadline. (*Appendices A and B*); (R.R. page 391, line 7 – page 393, line 4); (R.R., 06/30/14, page 24, line 5-8; page 63, line 14- page 65, line 20). [Tex. Fam. Code Ann. § 262.201\(b\) \(West\)](#); [§263.401\(a\)](#).

Relators are requesting this Honorable Court to issue a writ of mandamus instructing the Honorable Judge Callahan to return I.C. to Relators immediately and

dismiss this cause prior to and without a trial.

ISSUES PRESENTED

- I. THE TRIAL COURT ABUSED ITS DISCRETION IN FAILING TO RETURN I.C TO RELATORS AT THE CONCLUSION OF THE FULL ADVERSARY HEARING.
- II. THE TRIAL COURT ABUSED ITS DISCRETION IN EXTENDING THE DEADLINE IN THIS CAUSE.
- III. MANDAMUS IS THE APPROPRIATE REMEDY IN THIS CASE.

STATEMENT OF FACTS

CPS was named as the temporary managing conservator of I.C. on November 20, 2013. (*Appendix D*). I.C. was removed from Relators care at the same time as the other children, on November 21, 2014. (R.R. pages 42, lines 18-23; 79, line 25 – page 80, line 1; 80, lines 16-18; 85, lines 24-25); (*Appendix E*). At the time of the removal, I.C. had lived in Relators' home for approximately two years and they were in the process of adopting I.C. (R.R. pages 312, lines 5-8; 325, lines 6-8).

A de novo hearing took place on January 7, 2014. At the conclusion of the hearing, Judge Callahan found no valid grounds for the removal of the children. (R.R. page 386, line 11 – page 387, line 7). In fact, at the conclusion of that hearing, the judge returned four of the children. (R.R. page 387, lines 13-14). Two of the children returned were I.C.'s biological biological siblings, who had already been adopted by Relators. (R.R. pages 75, lines 6-7; 387, lines 13-14; State's Exhibit 4). One of those biological siblings, J.T., was one of the children that sparked the initial investigation into Relators home. (R.R. page 68, lines 17-23). Judge Callahan did not return I.C. (R.R. page 387, lines 11-12; 391, lines 7-11).

On June 30, 2014, Judge Callahan set the trial on the merits for January 5, 2015. (R.R. 06/30/14 page 24, lines 9-20). When informed by the attorney for CPS that the setting was beyond the dismissal date and would require an extension, the judge agreed to extend the case. (R.R.06/30/14 page 23, line 24-page 24, line 15).

She made no finding of extraordinary circumstances, but instead cited Respondent's request for a jury trial as the reason. (R.R. 06/30/14 pages 24, lines 5-8; and page 64, lines 2-10). She also did not set a new dismissal date at that time. (R.R. 06/30/14 pages 24, lines 5-20; 63, line 25; 64, lines 2-10, 14-18; and 65, lines 13-20). Relators objected to the extension through their attorney. (R.R. 06/30/14 pages 24, lines 9-20; 63, line 25).

On August 27, 2014, the Court dismissed the suit involving the four children returned, including J.T. and Ch.T., who are I.C.'s biological siblings. (*Appendix G*).

On January 5, 2015, the parties appeared for trial and were apprised of the DNA testing results excluding J.C. as the biological father of I.C. (R.R. 12/17/14 and 01/05/15, page 7, line 7- page 8, line 13). On that same date, I.H. named another man, I.A., as a possible biological father of I.C. (R.R. 12/17/14 and 01/05/15 page 9, lines 13-22). I.A. testified that he had known for "a couple of years" that he might be the biological father of I.C. (R.R. 12/17/14 and 01/05/15, page 10, lines 1-15). Nevertheless, the Court continued the case between CPS and Relators until April 27, 2014. (R.R. 12/17/14 and 01/05/15 page 27, lines 1-5). Judge Callahan also refused to return I.C. on that date, causing her to remain in foster care. (R.R. 12/17/14 and 01/05/15, page 23, lines 1-21).

ARGUMENTS AND AUTHORITIES

At the conclusion of the de novo hearing, Judge Callahan found no valid grounds for the removal of the children. (R.R. page 386, line 11 – page 387, line 7). Therefore, she had no choice except to return I.C. to Relators. Tex.Fam.Code§262.201(b). Failure to do so, was an abuse of discretion.

Additionally, Judge Callahan failed to commence the trial on November 24, 2014, which was the Monday following the first anniversary of the date CPS was first named as the temporary managing conservator of I.C. The statute specifically required that she do so. Tex.Fam.Code§263.401(a). Instead, on June 30, 2014, she granted an extension. (R.R. 06/30/14, page23, line 21-page 24, line 17); (*Appendix B*). However, she did not do so in accordance with the requirements of the statute. [§263.401\(b\)](#). She set the trial on the merits to begin on January 5, 2015. (R.R. 06/30/14, page 24, lines 9-20). Relators timely filed a Motion to Dismiss, prior to the commencement of the trial, which was denied. (R.R. 12/17/14 and 01/05/15, page 6, lines 17-18); (*Appendices F and G*). As the statute provides for no other option than the dismissal of the suit, the failure to do so was an abuse of discretion.

A party is entitled to mandamus relief if a trial court violates a legal duty or abuses its discretion, and the party has no adequate remedy by appeal. [Walker v. Packer, 827 S.W.2d 833, 839-40 \(Tex. 1992\)](#). In this case the judge violated both her legal duty to return I.C. to Relators and to dismiss the case. I.C. has remained

separated from her siblings and the rest of her family for over fourteen (14) months. Appeal is not an adequate remedy because the offending orders are temporary orders, which are not subject to appeal. [Little v. Daggett, 858 S.W.2d 368, 369 \(Tex. 1993\)](#); *See also*, [Dancy v. Daggett, 815 S.W.2d 548 \(Tex. 1991\)](#). Further, it will be months before the case is even called again for trial. (R.R. 12/17/14 and 01/05/15, page 27, lines 4-5). Therefore, mandamus is the appropriate remedy in this case for both complaints.

Accordingly, Relators are requesting this Honorable Court to issue a mandate instructing the Honorable Tena Callahan to return I.C. to Relators and dismiss the case pending in cause number 13-21227-2, in the 302nd Judicial District Court of Dallas, Texas, regarding I.C.

I. THE TRIAL COURT ABUSED ITS DISCRETION IN FAILING TO RETURN I.C. TO RELATORS AT THE CONCLUSION OF THE FULL ADVERSARY HEARING.

Based on the statutory mandate, Judge Callahan had no legal option other than to return I.C. to Relator. The statute provides:

“(b) At the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:

(1) there was a danger to the physical health or safety of the child which was caused by an act of failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child;

(2) the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child’s removal;
and

(3) reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home.

[Tex. Fam. Code Ann. § 262.201\(b\) \(West\)](#) (emphasis added).

At the time that I.C. was removed from Relators, she had lived in their home for approximately two years. Misty Plump did an adoptive social study for J.T. and Ch. T, who are I.C.’s biological siblings, in July of 2012. (R.R. page 276, lines 15-20). I.C. was already in the home at the time. (R.R. page 292, line 23- page 293, line 1). I.C.’s mother had executed an Affidavit of Relinquishment to Relators and they were in the process of adopting I.C. (R.R., page 324; line 14 – page 325, line 11).

At the conclusion of the testimony on January 7, 2014, Judge Callahan stated that the fact that the children were behind in school did not “rise to the level of

removal.” (R.R. page 386, lines 17-20). She also found that the fact that two of the younger children were found wandering from their home, did not “rise to the level of removal.” (R.R. page 386, lines 21-25). In fact, one of the children that was actually found wandering, J.T., a biological sibling of I.C., was returned to Relators, at the conclusion of the same hearing that included I.C. (R.R. pages 75, lines 6-7; 387, lines 13-14). The judge’s real concern was that Relator, C.T., had drafted some legal documents. One of those documents gave her possession of G.S and the other was the Decree signed by a judge in the adoption of J.T. and Ch.T. (R.R. page 387, lines 1-4; State’s Exhibits 3 and 4).

Referencing [Walker, 827 S.W.2d at 839-840](#), the Fifth Court of Appeals held that Relators were not entitled to relief based on the record they had presented. (Appendix C); [Walker v. Packer](#), 827. S.W. 2d 833, 839-840 (Tex. 1992). However, it would appear that portion of the [Walker](#) case specifically does support the relief requested by Relators. [Walker, 827 S.W.2d 833](#). “A trial court has no ‘discretion’ in determining what the law is or applying the law to the facts. Thus, a clear failure by the trial court to analyze or apply the law correctly will constitute an abuse of discretion....”. [Id.](#) The trial judge did both in this case.

First, Judge Callahan substituted the best interest standard for the standard that is specifically detailed as controlling in this case. Second, she erroneously accused C.T. of practicing law without a license; and, more egregiously, took that

erroneous characterization into consideration despite her acknowledgment, that even if true, it had not caused harm to the children. Third, she treated I.C. differently because Relators' adoption had not been completed, even though they were caretakers and custodians entitled to have I.C. returned.

The controlling statute indisputably requires the trier of fact to make all three specific findings in order to retain possession of a child. Tex. Fam.Code§262.201(b). Judge Callahan clearly did not make even one of the mandatory findings. (R.R. page 386, line 8 – page 387, line 7). Instead, her comments indicated that she substituted the best interest test for the statutorily required test. This error is evident from her statements: “I’m not saying these children were totally harmed, but it may not necessarily be in their best interest to remain where they are.” (R.R. page 387, lines 5-7); “And don’t just presume because she’s adopted those two she gets the other one. I don’t know that’s in her best interest right now. Okay? You certainly haven’t made that recommendation to me and I don’t know that’s in her best interest.” (R.R. page 391, line 21-page 392 line 1). Even the reference to best interest was not conclusive as indicated by the use of the word “may.” It references what might ultimately be best for I.C. in the future, which is an issue to be determined at a final hearing on the merits.

At the full adversary hearing, the findings that a trial court is statutorily required to make refer to the circumstances at the time of the removal. Tex.

Fam.Code§262.201(b). Having found that C.T.’s actions “had not necessarily harmed the children”, it was impossible for the judge to have found that there was, at the time of the removal, a “danger to the physical health and safety” of I.C.; an “urgent need to protect” I.C.; or “a continuing risk of danger” to I.C. (R.R. page 387, lines 5-7); Tex. Fam.Code§262.201(b). Even if the trial judge felt that it might be proven at some point that it was not in I.C.’s best interest to be adopted by Relators, she was not authorized to ignore the statutory mandate to return I.C. to Relators immediate care. Her failure to correctly analyze and apply the correct law resulted in an abuse of discretion.

Additionally, the judge failed to correctly analyze the law both in determining that C.T. was practicing law without a license and in even considering such an allegation, in light of her finding that it had not caused I.C. harm.

One of the documents drafted by C.T. was in regard to G.S. and was entitled, “Safety Plan for G.S.” (R.R., State’s Exhibit 3). However, G.S.’s father. M.B., testified that he had appeared in court after the execution of that document and the judge permitted G.S. to remain in C.T.’s custody.” (R.R., page 242, lines 8-12). M.B. also stated that he agreed to that arrangement because G.S. did not know him. (R.R., page 243, lines 1-10). He further testified that he had been advised he could have his own attorney, but turned it down. (R.R. page 244, lines 2-5). CPS was also aware that C.T. had been granted legal conservatorship of G.S. prior to his removal.

(R.R. page 73, lines 17-19). The other document drafted by C.T. was entitled, “Decree of Adoption”, and was entered in Cause Number DF-12-00381, in the 256th Judicial District Court of Dallas, Texas, on August 17, 2012. (R.R., State’s Exhibit 4). C.T. and T.T. were permitted to adopt J.T. and Ch.T., the biological siblings of I.C., by a judge of a court of competent jurisdiction, who signed the Decree of Adoption, regardless of who drafted it. (R.R., State’s Exhibit 4). Since more than six months had elapsed since their mother’s rights had been terminated, that action was no longer subject to even a collateral attack. Tex. Fam.Code§162.012.

While Relators were in the process of adopting J.T. and Ch.T, their mother, I.H., asked C.T. to also take another daughter, I.C. (R.R., page 325, lines 16-22). C.T. did not provide I.H.with the Voluntary Relinquishment executed by I.H. (R.R., page 325, lines 23-24). Nor did she know where I.H. obtained the document. (R.R. page 325, line 2 – page 326, line 2). Relators again did not act unilaterally or in secret. They filed a court action, where the entire process would be before a judge. (R.R. page 326, lines 6-11).

Most notably, there was no evidence that C.T. was ever charged with practicing law, let alone convicted of such behavior. Nor would the record support such a conviction. [Tex. Penal Code Ann. § 38.12 \(West\)](#); 38.122; and 38.123. This Court has recognized a litigant’s ability to act pro se in litigation, even when the documents prepared do not meet conventional form or standards expected from the

Bar. [Travelers Indem Co of Conn v. Mayfield, 923 S.W.2d 590 \(Tex.1996\)](#) (orig. proceeding); [Smith v Lipman, 826 S.W.2d 137, 138\(Tex. 1992\)](#). Once again, Judge Callahan both misanalysed the law and misapplied it to the facts before her, resulting in an abuse of discretion.

Finally, as the cases were all tried together, there is no logical way that the judge could have made findings in regard to I.C. that were different from the four children who were returned. The only difference between I.C. and the four children returned was that there was a legal parent-child relationship, either by birth or adoption, between the four children returned and Relators. (R.R. page 73, lines 5-10, 14-15; State's Exhibit 4). The statute, however, does not require the return of the child only to a parent. Tex.Fam.Code§262.201(b). Rather, it mandates that a child be returned to, among others, a "caretaker or a custodian entitled to possession." [Id.](#) Relators were both. They had taken care of I.C. for a significant amount of time at the time of the removal. (R.R. page 276, lines 15-20; page292, line 23- page 293, line 1). Additionally, I.C.'s mother had executed a voluntary relinquishment to Relators, so they were custodians entitled to possession. (R.R., page 324, lines 20-22). Therefore, trial judge has no option but to return I.C. to Relators' care with the other four children. Her failure to do so was an abuse of discretion.

Applying the wrong law, misapplying the law to the facts of the case, and ignoring the mandates of the law were all failure to analyze and apply the law. As such, each error was a clear abuse of discretion, which entitles Relators to mandamus relief. [*Walker v. Packer*](#), 827. S.W. 2d 833, 839-840 (Tex. 1992). Relators request this Honorable Court issue a mandate instructing the trial court to return I.C. to Relators immediately.

II. THE TRIAL COURT ABUSED ITS DISCRETION IN EXTENDING THE DEADLINE IN THIS CAUSE.

CPS was named as the temporary managing conservator of I.C. in the Ex Parte Order, entered on November 20, 2013. (*Appendix D*). The time begins to run from the date CPS is first named as the temporary managing conservator, even if the order was ex parte. [*In re Texas Department of Family and Protective Services*](#), 210 S.W.3d 609 (Tex. 2006). The trial must begin no later than the Monday following the one year anniversary of the date CPS was first named as the temporary managing conservator of the child. [*Tex. Fam. Code Ann. § 263.401\(a\)*](#) (West). Accordingly, in this case, the trial was statutorily required to begin no later than November 24, 2014.

On June 30, 2014, Judge Callahan set the trial on the merits for January 5, 2015, over Relators' objection. (R.R. 06/30/14, pages 24, lines 9-20; 63, line 25); (*Appendix B*). She did not make any findings as to extraordinary circumstances or that retaining the case on the docket was in I.C.'s best interest, as required by

statute. [*In re Department of Family and Protective Services*, 273 S.W.3d 637 \(Tex. 2009\)](#); [Tex. Fam. Code Ann. § 263.401\(b\) \(West\)](#). The only reasons she gave were that Relators had asked for a jury trial. (R.R. 06/30/14, pages 24, lines 5-8 and 64, lines 2-10). Every litigant in a suit involving termination or custody has the right to a trial by jury on those issues. [Tex. Fam. Code Ann. § 105.002 \(West\)](#). There is nothing extraordinary about a litigant exercising his or her due process rights. In fact, it is difficult to imagine why a litigant would choose to try this type of case to the same judge who has continued deny the return the child throughout the previous year, resulting in the need for a contested trial on the merits.

Judge Callahan also did not make any findings that the other cases set on earlier jury weeks were subject to the same deadline or were required by statute to be given priority. (R.R. 06/30/14, pages 64, lines 2-10, 14-18; 65, lines 13-20); [Tex. Gov't Code Ann. §§ 23.101, 23.102, 23.103 \(West\)](#). Although Judge Callahan seemed to focus on the fact that the case was not a termination, the statute applies to both a suit for termination and a suit for managing conservatorship. (R.R. page 64, lines 6-8); [Tex. Fam. Code Ann. § 263.401\(a\)](#). She stated that she could not “bump” another jury trial. (R.R. page 64, lines 5-6). However, she was willing to do that this year in order to continue the case even longer. (R.R. 12/17/14 and 01/05/15 page 20, line 21 - page 21, line 1).

Additionally, the Court was required to not only set a trial date, but to also set a specific dismissal date. [Tex. Fam. Code Ann. § 263.401\(b\) \(1\) \(West\)](#). Judge Callahan failed to do that. (R.R. 06/30/14, pages 24, lines 5-20; 63, line 25; 64, lines 2-10, 14-18; and 65, lines 13-20); (*Appendix B*). There is no vehicle for the trial court to correct this error. [In the Interest of D.D.M., A Child, 116 S.W.3d 224 \(Tex. App. – Tyler, 2003, no pet.\)](#).

Relators timely filed their Motion to Dismiss prior to the commencement of the first trial setting on January 5, 2015. (*Appendix F*); [Tex. Fam. Code Ann. § 263.402\(b\) \(West\)](#). That Motion was denied on December 17, 2014. (R.R. page 6, lines 17-18); (*Appendix G*). The judge had no choice, but to grant Relators Motion to Dismiss because the judge failed to meet the statutory requirements necessary to effect a proper extension. Her failure to do so was an abuse of discretion. Relators request that Judge Callahan be mandated to comply with the statute and dismiss the case dismiss the case pending in cause number 13-21227-2, in the 302nd Judicial District Court of Dallas, Texas, regarding I.C. immediately.

III. MANDAMUS IS THE APPROPRIATE REMEDY IN THIS CASE.

A party is entitled to mandamus relief if a trial court violates a legal duty or abuses its discretion, and the party has no adequate remedy by appeal. [Walker v. Packer, 827 S.W.2d 833, 839-40 \(Tex. 1992\)](#).

As demonstrated above, Judge Callahan abused her discretion by refusing to return I.C. to Relators, as mandated by statute. She further abused her discretion by granting an extension, without making the statutorily required findings or following the statutorily required process. Finally, she abused her discretion by refusing to dismiss the case as required by law.

The orders complained of by Relators are temporary orders, which are not subject to appeal. [Tex. Fam. Code Ann. § 105.001\(e\) \(West\)](#); (*Appendices A and B*). Further, it has been well-settled for more than twenty (20) years that appeal is an inadequate remedy where the Relators challenged temporary orders involving children, because temporary orders are not subject to appeal. [Little v. Daggett, 858 S.W.2d 368, 369 \(Tex. 1993\)](#); *See also, Dancy v. Daggett, 815 S.W.2d 548 (Tex. 1991)*. This is especially true in the case at bar, where the statutes are designed to minimize the time that children spend in foster care. *Sampson and Tindall, Texas Family Code Annotated*, 2014, page 1124.

In this instance, waiting for appeal will result in significantly more harm than additional cost and expense. [Walker, 827 S.W.2d 833](#). It has and will continue to impair Relators substantive and procedural rights. *See, In re Prudential Ins. Co., 148 S.W.3d 124, 136 (Tex. 2004)* (orig. proceeding). The reality is that a jury will be much less likely to permanently take the child away from Relators and her siblings, if she is residing in their home at the time of the trial. Judge Callahan's

failure to comply with the statute and return I.C. to her caretakers, has significantly affected the evidence to be presented at trial. Her last happy day in Relators home will be the day before she was removed rather than the day before the jury renders verdict. This injustice has been magnified by the erroneous granting of an extension in this case and subsequent continuance of the final hearing on the merits.

More importantly, these violations of the law, impair the rights of I.C., the intended beneficiary of the mandatory deadline. Each day that I.C. is erroneously forced to remain in foster care is a day away from her siblings and the family that had cared for her for nearly two years. (R.R. page 312, lines 5-8). Each week, at the end of a short visit, I.C. watches her brother and sister leave with Relators, while she is left behind. (R.R. page 391, lines 13-20). Now, there is no telling when I.C.'s situation will improve. In December of 2014, nearly thirteen months after the I.C. was removed from Relators, an alleged biological father joined the suit and and requested that the January 5, 2015 setting be continued. (Appendix G). That man proved to not be the biological father of I.C. (R.R. 12/17/14 and 01/05/15, page 7, line 7 – page 8, line 13). Another man was named as I.C.'s alleged father at that same hearing. (R.R. 12/17/14 and 01/05/15, page 9, lines 12-23). As a result, the trial was reset to April 27, 2015. (R.R. 12/17/14 and 01/05/15, page 27, lines 1-5). Even if Relators prevail at the jury trial, any of the

other three parties can file an appeal. I.C. could ultimately spend years in foster care instead of in a home with people who love her and have demonstrated a desire to be her forever family. (R.R. page 325, lines 6-8).

This Court has previously ruled that although the language requiring a trial court to dismiss a case is mandatory, failure to obey the law does not deprive the trial court of jurisdiction to try the case. [*In re Department of Family and Protective Services, Relator*, 273 S.W.3d 637 \(Tex. 2009\)](#) (r’hring denied). Therefore, the only way to compel a trial court to comply with these statutes is by mandamus. Otherwise, these laws are meaningless and impotent to protect children and litigants alike.

CONCLUSION

Nothing in the entire record from the January 7, 2014 hearing would indicate that I.C. was treated any differently or had different experiences in Relators home that would make it more likely that she face a “continuing danger” or “be in need of protection” than the other four children that were permitted to return to their home. [*Tex. Fam. Code Ann. § 261.201\(b\) \(West\)*](#). Further, there were no extraordinary circumstances that would justify delaying the opportunity for I.C. to be returned to what had become home to not only her siblings, but to her as well. The statutes are mandatory and the trial judge must be instructed to comply with those laws. As the

abuses occurred in temporary orders, the only remedy available to Relators is mandamus.

Seven children were removed for reasons that the trial judge determined did not justify removal. (R.R. page 386, line 11 – page 387, line 7). Yet this child alone remains in foster care. Mandamus is the only way she can return home without further, unnecessary delay.

PRAYER

WHEREFORE, Relators pray this Court grant this writ of mandamus and to specifically: (1) reverse the judgment of the trial court and instruct the judge to return I.C. to Relators immediately; and (2) instruct the trial judge to dismiss the state's case immediately.

Relators pray for all other relief, to which they would show themselves to be otherwise justly entitled.

CERTIFICATION

I certify that I have reviewed the petition and have concluded that every factual statement made in the petition is supported by competent evidence included in the appendix or the record.

s/ Cecilia M. Wood

CERTIFICATE OF COMPLIANCE

I certify that this document was produced on a computer using Microsoft Word 2013 and contains 4,299 words, as determined by the computer software's word-count function, excluding the sections of the document listed in Texas Rule of Appellate Procedure 9.4(i)(1).

s/ Cecilia M. Wood

Respectfully submitted,

Cecilia M. Wood
ATTORNEY AND COUNSELOR AT LAW, P.C.
Capitol Center
919 Congress Avenue, Suite 830
Austin, Texas 78701
Telephone No.: 512-708-8783
Facsimile No.: 512-708-8787
Cecilia@ceciliawood.com
State Bar No. 21885100
Attorney for Relators

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Petition for Writ of Mandamus was delivered to each individual indicated below, by U.S. certified mail, return receipt requested on the 9th day of February, 2015, in accordance with the Texas Rules of Appellate Procedure.

s/Cecilia M. Wood
Attorney and Counselor at Law, P.C.
Attorney for Relators

The Honorable Tena Callahan
302nd Judicial District Court
George L. Allen, Sr. Courts Building
600 Commerce Street, Suite 440
Dallas, Texas 75202
certified number 7008 1300 000 2946 8541

Ms. Sandre Streete-Moncriffe
Assistant District Attorney
Dallas County District Attorney's Office
2600 Lone Star, LB 22
Dallas, Texas 75212
Attorney for Texas Department of
Family and Protective Services
certified number 7008 1300 0000 8534

Mr. Charles Vaughn
Dallas County Public Defender's Office
George L. Allen Sr. Courts Building
600 Commerce Street
4th Floor, Room 465G
Dallas, Texas 75202
certified number 7008 1300 0000 2946 7940

Ms. Delia Gonzales
Guardian Ad Litem for the Children
2213 Boll Street
Dallas, Texas 75204
certified number 7008 1300 0000 2946 7933

Ms. LaDeitra D. Adkins
2704 Routh Street, Suite 1
Dallas, Texas 75201
certified number 7008 1300 0000 2946 7926

APPENDIX

- A. Temporary Order, entered December 16, 2013
- B. Chapter 263 Permanency Hearing Order, entered June 30, 2014
- C. Memorandum Opinion issued by the Fifth Court of Appeals 05-15-00003-CV
- D. Ex Parte Order for Emergency Care and Temporary Custody entered November 20, 2013
- E. Writ of Attachment entered November 20, 2013
- F. Motion to Dismiss filed by Relators
- G. Order on Respondent's Motion to Dismiss
- H. Statutes Referenced in Petition

APPENDIX A

Cause No: 13-21227-2

IN THE DISTRICT COURT
OF DALLAS COUNTY, TEXAS



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TEMPORARY ORDER

On this the 16 day of December, 20 13 came on to be heard this cause and the Court entered the following Temporary Orders regarding the subject child(ren) and the Appearances were as follows:

Petitioner, (TDFPS-DCCPS) Shon Robinson A.D.A. Sandre S. Monville
Child(ren)'s AAL/GAL Delia Gonzales A.A.G. _____

Appeared in person / failed to appear and by Attorney: _____

Appeared in person / failed to appear and by Attorney: _____

Appeared in person / failed to appear and by Attorney: _____

Appeared in person / failed to appear and by Attorney: _____

The Court finds that consistent with time and circumstances and pursuant to 42 U.S.C. 671 and 672, the Petitioner has made reasonable efforts to prevent the unnecessary removal of the child(ren) from the home and to maintain the family unit or that such reasonable efforts were not required due to aggravated circumstances as defined in Section 262.2015 T.F.C., and the Court finds that it is contrary to the welfare of the child(ren) to remain at their home and placement would be in the best interests of the child(ren). The Court finds that the efforts that were made to prevent the child(ren)'s removal from the home were reasonable under the circumstances considering the child(ren)'s health and safety. The Court finds that the efforts that were made to prevent the child(ren)'s removal from the home were reasonable under the circumstances considering the child(ren)'s health and safety. The Court finds that Petitioner has complied with the requirements of section 266.004 T.F.C. concerning consent to medical care of the subject child(ren). Further the Court finds that the following Orders are necessary and in the best interests of the subject child(ren). It is **Hereby Ordered and Decreed by the Court that:**

Petitioner TDFPS Respondent CPS is/are appointed the Temporary
Managing Conservator(s) of the subject child(ren) I

Petitioner, TDFPS Respondents _____ is/are appointed the Temporary
Possessory Conservator(s) of the child(ren) _____ and _____

is appointed Temporary Possessory Conservator of the subject child(ren) _____

[] The Prior Orders in this cause shall be continued in full force and effect, except as changed herein.

[] MOTHER FATHER _____ are to participate in: [] Parenting classes
[] psychological evaluation [] counseling [] drug/alcohol assessment [] random drug & alcohol urinalysis / hair strand tests AND
FOLLOW THROUGH WITH RECOMMENDATIONS made by any of these service providers as arranged and paid for by TDFPS.

[] MOTHER FATHER _____ are to participate in: [] Parenting classes
[] psychological evaluation [] counseling [] drug/alcohol assessment [] random drug & alcohol urinalysis / hair strand tests AND
FOLLOW THROUGH WITH RECOMMENDATIONS made by any of these service providers as arranged and paid for by TDFPS.

Each party submitting to a Court Ordered examination(s), assessments or counseling is hereby notified that any communication during such examinations/ counseling or assessments is NOT a privileged communication.

[] Visitation for the MOTHER FATHER _____ shall be at 2355 Stemmons Frwy,
Dallas, Texas OR at _____ SUPERVISED at all times by TDFPS or _____

and shall be (each / every other) _____ from _____ to _____
beginning on _____ or as arranged by the parties. It is not in the best interest to set specific terms/conditions of visitation,
other than it is to be SUPERVISED and _____

[] A Home Study of _____ shall be conducted by TDFPS
and filed / completed by _____. Upon favorable home study and approval of the child(ren)'s Attorney Ad Litem, TDFPS
shall place the subject child(ren) without further Court Orders and thereafter _____

shall SUPERVISE the MOTHER'S FATHER'S visitation at such times as mutually agreed between the parties;

[] As of _____ Child Support is ORDERED to be held by the Office of the Attorney General.

[] "Addendum A", attached hereto, is incorporated herein by reference as ORDERS of the Court.

[] _____

This case is reset for a status hearing on 1/30/14 at 2:30 PM M. located at:
[] Henry Wade Juvenile Justice Center, 2600 Cape Star Drive, Dallas Texas, on the 3rd floor, in the Judicial District Court.
[] George Allen Courts Building, 600 Commerce Street, Dallas, Texas on the 4th Floor in room # 2564H A.J.

Signed this the 17 day of Dec 20 13

A-000
JUDGE OF THE DISTRICT COURT

STATE OF TEXAS
COUNTY OF DALLAS }

I, GARY FITZSIMMONS, Clerk of the District of Dallas County Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears of record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 17th day of December, A.D., 2014.

GARY FITZSIMMONS, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By Margaret P. [Signature] Deputy

APPENDIX B



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Cause No. 13-21227

IN THE DISTRICT COURT
OF DALLAS COUNTY, TEXAS

CHAPTER 263 PERMANENCY HEARING ORDER

On this the 30th day of June, 20 14 came on to be heard this cause and the Court entered the following Temporary Orders regarding the subject child(ren) and the Appearances were as follows:

Petitioner, (TDFPS-DCCPS) Kristina Lindsay A.D.A. Sandra S. Monciffe
Child(ren)'s AAL/GAL Debra Gonzalez A.A.G.

M=I. #
F=Unknown

Appeared in person / failed to appear and by Attorney: _____
Appeared in person / failed to appear and by Attorney: Charles Vaughn
Appeared in person / failed to appear and by Attorney: _____
Appeared in person / failed to appear and by Attorney: _____
Appeared in person / failed to appear and by Attorney: _____
Appeared in person / failed to appear and by Attorney: _____

and
[] The Court finds that all parties entitled to notice of this hearing were notified. [] The Court finds that although entitled to notice of this hearing, was not notified [] and that TDFPS did exercise due diligence to locate all necessary person(s) [] and that the the parent before the court has not furnished to TDFPS all available information to locate the absent parent through the federal parental locator service. The Court has reviewed the pleadings and considered all the evidence and all relevant information required by law, including the Texas Department of Protective and Regulatory Services Status Report to the Court.

The Court finds that consistent with time and circumstances and pursuant to 42 U.S.C. 671 and 672, the Petitioner has made reasonable efforts prior to placement of the child or children in foster care to prevent or eliminate the need for removal of the child(ren) from their home and that prior to the children's removal the Petitioner made reasonable efforts to make it possible for the child(ren) to return home; or that these services were not provided because of an emergency situation and danger to the child or children. The Court finds that the efforts that were made to prevent the child(ren)'s removal from the home were reasonable under the circumstances considering the child(ren)'s health and safety. The Court, having reviewed the service plan filed by TDFPS, finds that the service plan is reasonable, accurate and in compliance with previous orders of this Court and it does adequately ensure that reasonable efforts are being made to enable the parents to provide a safe environment for the child and the Court finds that TDFPS has made reasonable efforts to finalize the permanency plan that is in effect and the Court further finds that:

* The mother has not complied with the case plan of services prepared for the family and the child(ren) to the extent that the child(ren) can be returned home; and the mother is not presently able or willing to provide the child(ren), with a safe environment, and there is a continuing need for placement of the child(ren) in foster care.

* The Respondent Mother has reviewed and understands the service plan and has been advised that unless she is willing and able to provide the child with a safe environment, even with the assistance of a service plan, within the reasonable period specified in the plan, her parental and custodial duties and rights may be subject to restriction or to termination or the child(ren) may not be returned to her.

* The father has not complied with the case plan of services prepared for the family and the child(ren) to the extent that the child(ren) can be returned home; and the father is not presently able or willing to provide the child(ren), with a safe environment, and there is a continuing need for placement of the child(ren) in foster care.

* The Respondent Father has reviewed and understands the service plan and has been advised that unless he is willing and able to provide the child with a safe environment, even with the assistance of a service plan, within the reasonable period specified in the plan, his parental and custodial duties and rights may be subject to restriction or to termination or the child may not be returned to him.

The Court finds that Petitioner has complied with the requirements of section 266.004 T.F.C. concerning consent to medical care of the subject child(ren).

* TDFPS has provided assistance to the parent(s) as provided within the service plan.

* Not enough progress has been made toward alleviating or mitigating the causes necessitating placement of the child(ren) in foster care to enable the child(ren) to return home; and

* The permanent plan for the child(ren) and target date as cited in the service plans dated _____ and filed with this court are found to be reasonable and the present placement(s) of the child(ren) are found to be appropriate.

[] At least one child is 16 years of age or older, and the services offered to the child to prepare for independent living are reasonable and such a transition is in the best interest of said child(ren).

The Court finds that the following Orders are necessary for the safety and welfare of the subject child(ren) and that such Orders are in the best interest of the child(ren) and it is **Hereby Ordered and Decreed by the Court that:**

Petitioner TDFPS / Respondent _____ is appointed / continued the Temporary Managing Conservator(s) of the subject child(ren) _____.

Petitioner TDFPS / Respondent _____ are appointed / continued the Temporary Possessory Conservator(s) of the subject child(ren) _____ and _____ is appointed / continued the Temporary Possessory Conservator(s) of the child(ren) _____.

X The prior Orders in this cause shall be continued in full force and effect, except as changed herein.
Each party submitting to a Court Ordered examination(s), assessments or counseling is hereby notified that any communication during such examinations/ counseling/ assessments is NOT a privileged communication.

[] MOTHER FATHER _____ are to participate in: [] Parenting classes [] psychological evaluation [] counseling [] drug/alcohol assessment [] random drug & alcohol urinalysis / hair strand tests AND FOLLOW THROUGH WITH RECOMMENDATIONS made by any of these service providers as arranged and paid for by TDFPS.

[] MOTHER FATHER _____ are to participate in: [] Parenting classes [] psychological evaluation [] counseling [] drug/alcohol assessment [] random drug & alcohol urinalysis / hair strand tests AND FOLLOW THROUGH WITH RECOMMENDATIONS made by any of these service providers as arranged and paid for by TDFPS.

[] Visitation for the MOTHER FATHER _____ shall be at 2355 Stemmons Frwy, Dallas, Texas OR at _____ SUPERVISED at all times by TDFPS or _____ and shall be (each / every other) _____ from _____ to _____ beginning on _____ or as arranged by the parties. It is not in the best interest to set specific terms/conditions of visitation, other than it is to be SUPERVISED and _____

[] A Home Study of _____ shall be conducted by TDFPS and filed / completed by _____. Upon favorable home study and approval of the child(ren)'s Attorney Ad Litem, TDFPS shall place the subject child(ren) without further Court Orders and thereafter _____ shall SUPERVISE AT ALL TIMES the MOTHER'S FATHER'S visitation at such times as mutually agreed between the parties;

ALL SUPPORT PAYMENTS SHALL IDENTIFY: (1) Obligor's name, (2) Obligee's name, (3) Cause # and (4) O.A.G.#, if any.

[] OBLIGOR, FATHER _____, shall pay CHILD SUPPORT for the subject child(ren) _____ in the amount of \$ _____ beginning _____, 20 _____ and on the _____ day of each month thereafter, until modified;

[] Said support shall be payable to OBLIGEE, "TDFPS", and mailed to the TEXAS CHILD SUPPORT DISBURSEMENT UNIT, PAYMENT ONLY, P.O. BOX 659791, SAN ANTONIO, TEXAS 78265 and remitted to TDFPS by and through the O.A.G.'s IV-D Agency, and if the subject child(ren) is/are in a "relative/kinship" placement, then TDFPS shall redirect said support payments to the individual(s) with possession of the above named subject child(ren).

[] Said support shall be payable to OBLIGEE, _____, and mailed to the TEXAS CHILD SUPPORT DISBURSEMENT UNIT, PAYMENT ONLY, P.O. BOX 659791, SAN ANTONIO, TEXAS 78265 and OBLIGOR shall pay a \$36.00 yearly monitoring fee payable to the Dallas County Child Support Office, 600 Commerce, Suite 128, Dallas, Texas 75202-6632, at least (5) days before the date stated above for child support to be begin and each year thereafter on same said date.

[] OBLIGOR, MOTHER _____, shall pay CHILD SUPPORT for the subject child(ren) _____ in the amount of \$ _____ beginning _____, 20 _____ and on the _____ day of each month thereafter, until modified;

[] Said support shall be payable to OBLIGEE, "TDFPS", and mailed to the TEXAS CHILD SUPPORT DISBURSEMENT UNIT, PAYMENT ONLY, P.O. BOX 659791, SAN ANTONIO, TEXAS 78265 and remitted to TDFPS by and through the O.A.G.'s IV-D Agency, and if the subject child(ren) is/are in a "relative/kinship" placement, then TDFPS shall redirect said support payments to the individual(s) with possession of the above named subject child(ren).

[] Said support shall be payable to OBLIGEE, _____, and mailed to the TEXAS CHILD SUPPORT DISBURSEMENT UNIT, PAYMENT ONLY, P.O. BOX 659791, SAN ANTONIO, TEXAS 78265 and OBLIGOR shall pay a \$36.00 yearly monitoring fee payable to the Dallas County Child Support Office, 600 Commerce, Suite 128, Dallas, Texas 75202-6632, at least (5) days before the date stated above for child support to be begin and each year thereafter on same said date.

[] "Addendum A", attached hereto, is incorporated by reference as Orders of the Court.

N TDFPS shall facilitate a bonding assessment between I _____ by September 2014

This case is reset for a TBJ hearing on 8/15-9/24 9:00 A. M. located at:

[] Henry Wade Juvenile Justice Center, 2600 Lone Star Drive, 3rd floor, Dallas, in the Judicial District Court.

N George Allen Building, 600 Commerce Street, Dallas, Texas, on the 4th Floor, in Room# _____

This case also set for 8/22/2014 PH2 on 8/22/2014 at 2:00 p. M. located at: 302nd District Court.

Signed this the 30 day of June 2014

Juan Callal
Judge of the District Court

Extension Granted as to
Statutory deadline.

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 2nd day of February, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By Cecilia Flower Deputy

APPENDIX C

DENY; and Opinion Filed January 2, 2015.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-15-00003-CV

IN RE C.T. AND T.T., Relators

**Original Proceeding from the 302nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. 13-21227-Z-265**

MEMORANDUM OPINION

Before Justices Lang, Fillmore, and Brown
Opinion by Justice Lang

Relators filed this petition for writ of mandamus requesting that the Court order the trial court to return the child who is the subject of this petition to relators immediately and order the trial court to dismiss the case. Ordinarily, to obtain mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). Based on the record before us, we conclude relators have not shown they are entitled to the relief requested. *See Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992) (orig. proceeding). Accordingly, we **DENY** relators' petition for writ of mandamus. TEX. R. APP. P. 52.8(a).

/Douglas S. Lang/
DOUGLAS S. LANG
JUSTICE

APPENDIX D

No. 13-21227-Z-256th

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I' C

CHILD(REN)

IN THE DISTRICT COURT
OF

DALLAS COUNTY, TEXAS

EX PARTE ORDER FOR EMERGENCY CARE AND TEMPORARY CUSTODY

On this the 20 day of NOV, 2013, a hearing was held re the Petition in this Suit Affecting the Parent-Child Relationship; and the Court finds that it has jurisdiction of this cause pursuant to Title Five and Chapter 262 T.F.C.

I.

The Court finds that there is a continuing danger to the physical health and/or safety of the subject child/ren named below if returned to the parent, conservator, custodian, or guardian presently entitled to possession, said child/ren being: I' J: C: , born

II.

The Court finds that reasonable efforts were made to prevent the unnecessary removal of the child/ren from the home and to maintain the family unit or that such reasonable efforts were not required due to aggravated circumstances as defined in Section 262.2015 T.F.C., and the Court finds that it is contrary to the welfare of the child/ren to remain at home and placement would be in the best interest of the child/ren.

III.

IT IS, THEREFORE, ORDERED AND DECREED that the Dallas County Child Protective Services Unit of the Texas Department of Family and Protective Services is hereby appointed temporary managing conservator of the subject child/ren limited to possession, custody, and control and the responsibility to determine the placement, inclusive of the right to place the child(ren) upon approved homestudy consistent with 262.114 T.F.C., and methods of care of the subject child/ren until a hearing can be held. The Texas Department of Family and Protective Services shall have the following rights, privileges, duties, and powers pending such hearing:

1. the duty of care, control, protection, and reasonable discipline of the subject child/ren; and
2. the duty to provide the subject child/ren with clothing, food, and shelter; and
3. the power to consent to medical and surgical treatment for the health and safety of the subject child/ren.

The Court finds that the continuation of the subject child/ren in the home is contrary to the welfare of the child/ren and the Court finds that consistent with time and circumstances and pursuant to 42 U.S.C. Section 671(a)(15) and 672(a)(1), that Petitioner

could not make a reasonable effort prior to placement of the child/ren in foster care to prevent or eliminate the need for removal of the child/ren, and that prior to the removal, Petitioner could not make reasonable efforts to make it possible for the child/ren to return home and that these services were not provided because of an emergency situation and danger to the child/ren.

IT IS FURTHER ORDERED that the Clerk shall issue a NOTICE ordering C
A: Tl aka C A: M aka C A: C at
l , and Tl Kt Tl at
and I R: D Y: H: at
Respondent(s) herein, to appear before this Court located on the 4th floor, in the
2564 AJ Court at: George Allen Bldg., 600 Commerce, Dallas, Texas, on
the 4 day of Dec, 20 13, at 9:00 o'clock A.M.,
for a hearing to determine whether Petitioner should be appointed the Temporary Managing
Conservator of the subject child/ren and whether Respondents should pay temporary
support for the benefit of the subject child/ren.

It is requested by the Court pursuant to 155.101 T.F.C. that the Texas Department of
Family and Protective Services identify the Court that last had jurisdiction of the child/ren
the subject of this suit and give the docket number of the suit. The child/ren for which this
information is requested are previously described in this Order.

**YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY. IF YOU ARE
INDIGENT AND UNABLE TO AFFORD AN ATTORNEY, YOU HAVE THE RIGHT TO
REQUEST THE APPOINTMENT OF AN ATTORNEY BY CONTACTING THE COURT AT
600 COMMERCE ST., DALLAS, TEXAS 75202, (214) 653-7121. IF YOU APPEAR IN
OPPOSITION TO THE SUIT, CLAIM INDIGENCE, AND REQUEST THE APPOINTMENT
OF AN ATTORNEY, THE COURT WILL REQUIRE YOU TO SIGN AN AFFIDAVIT OF
INDIGENCE AND THE COURT MAY HEAR EVIDENCE TO DETERMINE IF YOU ARE
INDIGENT. IF THE COURT DETERMINES YOU ARE INDIGENT AND ELIGIBLE FOR
APPOINTMENT OF AN ATTORNEY, THE COURT WILL APPOINT AN ATTORNEY TO
REPRESENT YOU.**

SIGNED THIS 20 DAY OF NOV, 2013, AT 10:10 O'CLOCK A.M.

Assoc
JUDGE OF THE DISTRICT COURT OF
DALLAS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 16 day of January, A.D., 2015.

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [Signature] Deputy

APPENDIX E

NO. 13-21227-Z-256th

7840
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IN THE INTEREST OF

IN THE DISTRICT COURT

I C

OF

CHILD/REN

DALLAS COUNTY, TEXAS

WRIT OF ATTACHMENT

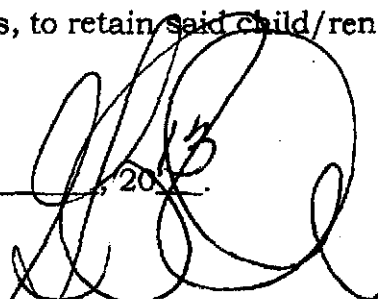
TO THE CLERK:

YOU ARE HEREBY DIRECTED TO ISSUE A WRIT OF ATTACHMENT TO THE
SHERIFF OR ANY CONSTABLE OF THE STATE OF TEXAS DIRECTING HIM TO:

ATTACH the body and person of I J C ; BY ANY MEANS
NECESSARY, INCLUDING FORCIBLE ENTRY AT ANY ADDRESS WHERE THE CHILD
MAY BE LOCATED, AND BRING HER FORTHWITH, PERSONALLY TO THE OFFICES OF
DALLAS COUNTY CHILD PROTECTIVE SERVICES UNIT OF THE TEXAS DEPARTMENT OF
FAMILY AND PROTECTIVE SERVICES.

AND TO COMMAND the Dallas County Child Protective Services Unit of the
Texas Department of Family and Protective Services, to retain said child/ren in their
custody, pending further orders of this Court.

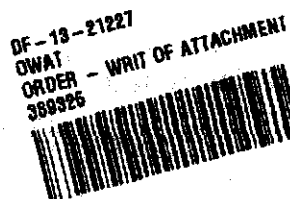
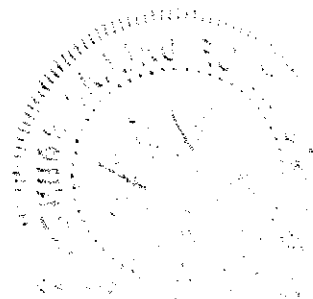
Signed this the 20 day of NOV, 2013.



Judge of the District Court
Dallas County, Texas

ADDRESS:

CASEWORKER: Shan Robinson



STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office in Dallas, Texas, this 16 day of January A.D., 2013

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [Signature] Deputy

APPENDIX F

FILED

NOTICE TO CLERK:
THIS DOCUMENT CONTAINS SENSITIVE DATA

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CAUSE NO. DF-13-21227

GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO., TEXAS

DEPUTY

DALLAS COUNTY CHILD
PROTECTIVE SERVICES UNIT

VS.

I A H L ET AL

IN THE 302ND JUDICIAL

DISTRICT COURT OF

DALLAS COUNTY, TEXAS

CAUSE NO. DF-13-21229

DALLAS COUNTY CHILD
PROTECTIVE SERVICES UNIT

VS.

C T , ET AL

IN THE 302ND JUDICIAL

DISTRICT COURT OF

DALLAS COUNTY, TEXAS

CAUSE NO. DF-13-21229

DALLAS COUNTY CHILD
PROTECTIVE SERVICES UNIT

VS.

C T , ET AL

IN THE 302ND JUDICIAL

DISTRICT COURT OF

DALLAS COUNTY, TEXAS

CAUSE NO. DF-10-12513

C T AND
T T

VS.

H AND
C H

IN THE 302ND JUDICIAL

DISTRICT COURT OF

DALLAS COUNTY, TEXAS

MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, C and T, Respondents in the above-entitled and numbered cause, and file this their Motion to Dismiss, and in support thereof, would show the Court as, follows:

I.

The Texas Department of Family and Protective Services was named as the managing conservator of the children, the subject of this suit on November 20, 2013. See, Exhibit A. Pursuant to 263.401(a) it was incumbent upon this Court to begin the trial in these causes no later than November 24, 2014, the Monday following the one year anniversary of the date TDFPS was named as the managing conservator of the children.

II.

On June 30, 2014, this Court set the final trial on the merits for January 5, 2015, over the objections of Respondents. Section 263.401 permits the Court to retain the case on the docket only if it finds that "extraordinary circumstances necessitate the child remaining in the temporary managing conservatorship of the department and that continuing the appointment of the department as the temporary managing conservator of the child is in the best interest of the child." The Court failed to make these findings.

Instead, the stated that it was necessary to extend the deadlines because Respondents had exercised their right to trial by jury in requesting the same. The Court further found that there were other cases that had already been set on the jury weeks. The nature of these cases was not revealed. However, the Court did not specify that any or all of those cases previously set, were entitled to priority under Tex. Gov't Code § 23.101.

III.

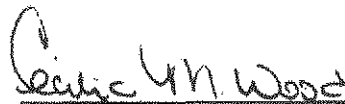
Additionally, the Court did not schedule a new date on which the case will be dismissed.

See Exhibit B.

WHEREFORE, C and T T pray that the Court enter an order
dismissing the State's pleadings in each of the above entitled and numbered cause.

Respondents pray for all relief to which they would show themselves to be otherwise
justly entitled.

Respectfully submitted,



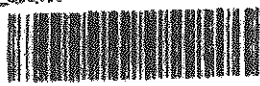
CECILIA M. WOOD
ATTORNEY AND COUNSELOR AT LAW, P. C.
Capitol Center
919 Congress Avenue, Suite 830
Austin, Texas 78701
Tel: 512-708-8783
Fax: 512-708-8787
Cecilia@ceciliawood.com
State Bar No. 21885100

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document
was hand-delivered to each opposing party or respective attorney of counsel on the 12th day of
December, 2014.



CECILIA M. WOOD
ATTORNEY AND COUNSELOR AT LAW, P. C.
Attorney for Respondents, C and
T T



No. 13-21229-U-302nd

IN THE INTEREST OF

E. A. T. ET AL

CHILD(REN)

IN THE DISTRICT COURT

OF

DALLAS COUNTY, TEXAS

EX PARTE ORDER FOR EMERGENCY CARE AND TEMPORARY CUSTODY

On this the 20 day of NOV, 2013, a hearing was held re the Petition in this Suit Affecting the Parent-Child Relationship; and the Court finds that it has jurisdiction of this cause pursuant to Title Five and Chapter 262 T.F.C.

I.

The Court finds that there is a continuing danger to the physical health and/or safety of the subject child/ren named below if returned to the parent, conservator, custodian, or guardian presently entitled to possession, said child/ren being: E. K. T., born and B. A. R. T., born

II.

The Court finds that reasonable efforts were made to prevent the unnecessary removal of the child/ren from the home and to maintain the family unit or that such reasonable efforts were not required due to aggravated circumstances as defined in Section 262.2015 T.F.C., and the Court finds that it is contrary to the welfare of the child/ren to remain at home and placement would be in the best interest of the child/ren.

III.

IT IS, THEREFORE, ORDERED AND DECREED that the Dallas County Child Protective Services Unit of the Texas Department of Family and Protective Services is hereby appointed temporary managing conservator of the subject child/ren limited to possession, custody, and control and the responsibility to determine the placement, inclusive of the right to place the child(ren) upon approved homestudy consistent with 262.114 T.F.C., and methods of care of the subject child/ren until a hearing can be held. The Texas Department of Family and Protective Services shall have the following rights, privileges, duties, and powers pending such hearing:

1. the duty of care, control, protection, and reasonable discipline of the subject child/ren; and
2. the duty to provide the subject child/ren with clothing, food, and shelter; and
3. the power to consent to medical and surgical treatment for the health and safety of the subject child/ren.

The Court finds that the continuation of the subject child/ren in the home is contrary to the welfare of the child/ren and the Court finds that consistent with time and circumstances and pursuant to 42 U.S.C. Section 671(a)(15) and 672(a)(1), that Petitioner

could not make a reasonable effort prior to placement of the child/ren in foster care to prevent or eliminate the need for removal of the child/ren, and that prior to the removal, Petitioner could not make reasonable efforts to make it possible for the child/ren to return home and that these services were not provided because of an emergency situation and danger to the child/ren.

IT IS FURTHER ORDERED that the Clerk shall issue a NOTICE ordering C
A. T. aka C. A. M. aka C. A. C. / at
, and T. K. T. at:

Respondent(s) herein, to appear before this Court located on the 4th floor, in the 256th AJ Court at: George Allen Bldg., 600 Commerce, Dallas, Texas, on the 4th day of December, 20 13, at 9:00 o'clock A.M., for a hearing to determine whether Petitioner should be appointed the Temporary Managing Conservator of the subject child/ren and whether Respondents should pay temporary support for the benefit of the subject child/ren.

It is requested by the Court pursuant to 155.101 T.F.C. that the Texas Department of Family and Protective Services identify the Court that last had jurisdiction of the child/ren the subject of this suit and give the docket number of the suit. The child/ren for which this information is requested are previously described in this Order.

YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY. IF YOU ARE INDIGENT AND UNABLE TO AFFORD AN ATTORNEY, YOU HAVE THE RIGHT TO REQUEST THE APPOINTMENT OF AN ATTORNEY BY CONTACTING THE COURT AT 600 COMMERCE ST., DALLAS, TEXAS 75202, (214) 653-7121. IF YOU APPEAR IN OPPOSITION TO THE SUIT, CLAIM INDIGENCE, AND REQUEST THE APPOINTMENT OF AN ATTORNEY, THE COURT WILL REQUIRE YOU TO SIGN AN AFFIDAVIT OF INDIGENCE AND THE COURT MAY HEAR EVIDENCE TO DETERMINE IF YOU ARE INDIGENT. IF THE COURT DETERMINES YOU ARE INDIGENT AND ELIGIBLE FOR APPOINTMENT OF AN ATTORNEY, THE COURT WILL APPOINT AN ATTORNEY TO REPRESENT YOU.

SIGNED THIS 20 DAY OF Nov, 2013, AT 10:10 O'CLOCK A.M.

Assoc 
JUDGE OF THE DISTRICT COURT OF
DALLAS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF DALLAS

GARY FITZSIMMONS, Clerk of the District of Court, do hereby certify that I have compared the foregoing with the original as on file in my office.

IN WITNESS MY HAND AND SEAL of said Court, at Dallas, Texas, this 13th day of May, A.D. 2014

GARY FITZSIMMONS, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By [Signature] Deputy



FILED

CECILIA M. WOOD*

Attorney and Counselor at Law

Telephone (512) 708-8783

Facsimile (512) 708-8787

Cecilia@ceciliawood.com

2014 DEC 18 AM 11:44

GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO., TEXAS

Capitol Center

Congress Avenue, Suite 830

Austin, Texas 78701

DEPUTY

*Board certified - Family Law

Texas Board of Legal Specialization

December 12, 2014

Cathy Sanchez
Court Coordinator
256th District Court
George L. Allen, Sr. Courts Building
600 Commerce Street
Dallas, Texas 75202

RE: Cause No. DF-13-21227; *Dallas County Child Protective Services Unit vs. I*
H, *Et Al*

Dear Ms. Sanchez,

Enclosed please find the 2 copies of *Motion to Dismiss* to be filed in the above-referenced cause. Please return a file-marked copy in the enclosed, self-addressed, stamped envelope.

Under cover of this letter, I am forwarding a copy of the document to opposing counsel.

Yours truly,

Emely M. Ambris
Legal Assistant

enclosures

cc; C and T FT via email

Ms. Sandra Lorraine Stre Monciffe; via facsimile transmission to: 214-698-5551

Ms. Delia Gonzales; via facsimile transmission to: 214-941-7993

Mr. Charles Vaughn; via facsimile transmission to: 214-653-7993

STATE OF TEXAS }
COUNTY OF DALLAS }

I, GARY FITZSIMMONS, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears of record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office
In Dallas, Texas, this 18 day of December, A.D., 2014

GARY FITZSIMMONS, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By

[Signature]

Deputy

APPENDIX G

NOTICE TO CLERK:
THIS DOCUMENT CONTAINS SENSITIVE DATA

CAUSE NO. DF-13-21227-Z-256

DALLAS COUNTY CHILD	*	IN THE 302 ND JUDICIAL
PROTECTIVE SERVICES UNIT	*	
	*	
VS.	*	DISTRICT COURT OF
	*	
I H ET AL	*	DALLAS COUNTY, TEXAS

CAUSE NO. DF-13-21229

DALLAS COUNTY CHILD	*	IN THE 302 ND JUDICIAL
PROTECTIVE SERVICES UNIT	*	
	*	
VS.	*	DISTRICT COURT OF
	*	
C T , ET AL	*	DALLAS COUNTY, TEXAS

CAUSE NO. DF-10-12513

C T AND	*	IN THE 302 ND JUDICIAL
T T	*	
	*	
VS.	*	DISTRICT COURT OF
	*	
E H AND	*	
C H	*	DALLAS COUNTY, TEXAS

ORDER ON RESPONDENT'S MOTION TO DISMISS

On the 17th day of December, 2014, came on to be heard Respondents' Motion to Dismiss. The Court, after considering the motion and the argument of counsel makes the following findings and Orders:

The Court finds that the cases involving E T , B R T , Cause Number DF-13-21229, and J T and C T cause number DF-10-12513, were dismissed on


August 27, 2015.


IT IS ORDERED that the Motion to Dismiss in Cause Number DF-13-21227-Z-256,
regarding I. C. is DENIED to which Respondents duly except. *for Pa.*

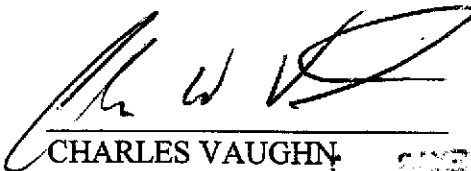
JUDICIALLY PRONOUNCED AND RENDERED on the 17th day of December, 2014,
but MINISTERIALLY SIGNED AND RATIFIED on the 5th day of January, 2015.

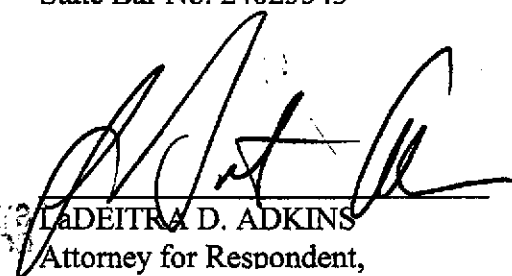

JUDGE PRESIDING

APPROVED AS TO FORM:



CECILIA M. WOOD
Attorney for Respondents,
CHRISTINA AND TREVOR TUTT
State Bar No. 21885100


SANDRE STREETE MONCRIEFFE
Attorney for Petitioner
State Bar No. 24025543


CHARLES VAUGHN
Attorney for Respondent,
I. H.
State Bar No. 20521300


LADEITRA D. ADKINS
Attorney for Respondent,
J. C.
State Bar No. 24026763

APPROVED AS TO FORM AND SUBSTANCE:


DELIA GONZALES
Guardian Ad. Litem

STATE OF TEXAS }
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District
Court of Dallas County, Texas do hereby
certify that I have compared this instrument
to the true and correct copy of the original
as it appears of record in my office.

GIVEN UNDER MY HAND AND SEAL of
said County of Dallas, Texas
this _____

A.D., _____

FELICIA PITRE, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By _____ Deputy

Callie Green

JAN - 5 2015

APPENDIX H

Vernon's Texas Statutes and Codes Annotated
Penal Code (Refs & Annos)
Title 8. Offenses Against Public Administration
Chapter 38. Obstructing Governmental Operation

V.T.C.A., Penal Code § 38.12

§ 38.12. Barratry and Solicitation of Professional Employment

Effective: September 1, 2013

[Currentness](#)

(a) A person commits an offense if, with intent to obtain an economic benefit the person:

- (1) knowingly institutes a suit or claim that the person has not been authorized to pursue;
- (2) solicits employment, either in person or by telephone, for himself or for another;
- (3) pays, gives, or advances or offers to pay, give, or advance to a prospective client money or anything of value to obtain employment as a professional from the prospective client;
- (4) pays or gives or offers to pay or give a person money or anything of value to solicit employment;
- (5) pays or gives or offers to pay or give a family member of a prospective client money or anything of value to solicit employment; or
- (6) accepts or agrees to accept money or anything of value to solicit employment.

(b) A person commits an offense if the person:

- (1) knowingly finances the commission of an offense under Subsection (a);
- (2) invests funds the person knows or believes are intended to further the commission of an offense under Subsection (a); or
- (3) is a professional who knowingly accepts employment within the scope of the person's license, registration, or certification that results from the solicitation of employment in violation of Subsection (a).

(c) It is an exception to prosecution under Subsection (a) or (b) that the person's conduct is authorized by the Texas Disciplinary Rules of Professional Conduct or any rule of court.

(d) A person commits an offense if the person:

(1) is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state; and

(2) with the intent to obtain professional employment for the person or for another, provides or knowingly permits to be provided to an individual who has not sought the person's employment, legal representation, advice, or care a written communication or a solicitation, including a solicitation in person or by telephone, that:

(A) concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication or solicitation is provided or a relative of that person and that was provided before the 31st day after the date on which the accident or disaster occurred;

(B) concerns a specific matter and relates to legal representation and the person knows or reasonably should know that the person to whom the communication or solicitation is directed is represented by a lawyer in the matter;

(C) concerns a lawsuit of any kind, including an action for divorce, in which the person to whom the communication or solicitation is provided is a defendant or a relative of that person, unless the lawsuit in which the person is named as a defendant has been on file for more than 31 days before the date on which the communication or solicitation was provided;

(D) is provided or permitted to be provided by a person who knows or reasonably should know that the injured person or relative of the injured person has indicated a desire not to be contacted by or receive communications or solicitations concerning employment;

(E) involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence; or

(F) contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(e) For purposes of Subsection (d)(2)(D), a desire not to be contacted is presumed if an accident report reflects that such an indication has been made by an injured person or that person's relative.

(f) An offense under Subsection (a) or (b) is a felony of the third degree.

(g) Except as provided by Subsection (h), an offense under Subsection (d) is a Class A misdemeanor.

(h) An offense under Subsection (d) is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under Subsection (d).

(i) Final conviction of felony barratry is a serious crime for all purposes and acts, specifically including the State Bar Rules and the Texas Rules of Disciplinary Procedure.

Credits

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1989, 71st Leg., ch. 866, § 2, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 723, § 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 750, § 2, eff. Sept. 1, 1997; Acts 2009, 81st Leg., ch. 1252, § 1, eff. Sept. 1, 2009; Acts 2013, 83rd Leg., ch. 315 (H.B. 1711), § 3, eff. Sept. 1, 2013.

[Notes of Decisions \(60\)](#)

V. T. C. A., Penal Code § 38.12, TX PENAL § 38.12

Current through the end of the 2013 Third Called Session of the 83rd Legislature

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 23. General Provisions for Trial Courts
Subchapter B. Priority in Setting Hearings and Trials

V.T.C.A., Government Code § 23.101

§ 23.101. Primary Priorities

Effective: September 1, 2013

[Currentness](#)

(a) The trial courts of this state shall regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with the following actions given preference over other criminal actions:

(A) criminal actions against defendants who are detained in jail pending trial;

(B) criminal actions involving a charge that a person committed an act of family violence, as defined by [Section 71.004, Family Code](#);

(C) an offense under:

(i) [Section 21.02](#) or [21.11, Penal Code](#);

(ii) Chapter 22, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iii) [Section 25.02, Penal Code](#), if the victim of the alleged offense is younger than 17 years of age;

(iv) [Section 25.06, Penal Code](#);

(v) [Section 43.25, Penal Code](#); or

(vi) [Section 20A.03, Penal Code](#);

(D) an offense described by [Article 62.001\(6\)\(C\) or \(D\), Code of Criminal Procedure](#); and

(E) criminal actions against persons who are detained as provided by [Section 51.12, Family Code](#), after transfer for prosecution in criminal court under [Section 54.02, Family Code](#);

(3) election contests and suits under the Election Code;

(4) orders for the protection of the family under Subtitle B, Title 4, Family Code;

(5) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims and claims under the Federal Employers' Liability Act¹ and the Jones Act;²

(6) appeals of final orders of the commissioner of the General Land Office under [Section 51.3021, Natural Resources Code](#);

(7) actions in which the claimant has been diagnosed with malignant mesothelioma, other malignant asbestos-related cancer, malignant silica-related cancer, or acute silicosis; and

(8) appeals brought under [Section 42.01](#) or [42.015, Tax Code](#), of orders of appraisal review boards of appraisal districts established for counties with a population of less than 175,000.

(b) Insofar as practicable, the trial courts shall observe the preference provided by Subsection (a) in ruling on, hearing, and trying the matters pending before the courts.

(c) A district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries shall confer with a trial court regarding trial settings or other matters regarding remand. The trial court shall cooperate with the multidistrict litigation court and shall not continue or postpone a trial setting without the concurrence of the multidistrict litigation court.

(d) A district court judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries is a party in interest for the limited purpose of requesting mandamus enforcement of the priority in setting hearings and trials under Subsection (a)(7).

Credits

Acts 1985, 69th Leg., ch. 480, § 1, eff. Sept. 1, 1985. Amended by [Acts 1987, 70th Leg., ch. 1037, § 1, eff. Aug. 31, 1987](#); [Acts 1989, 71st Leg., ch. 614, § 22, eff. Sept. 1, 1989](#); [Acts 1989, 71st Leg., ch. 739, § 32, eff. Sept. 1, 1989](#); [Acts 1989, 71st Leg., ch. 755, § 3, eff. Sept. 1, 1989](#); [Acts 1989, 71st Leg., 2nd C.S., ch. 1, § 15.01, eff. Jan. 1, 1991](#); [Acts 1991, 72nd Leg., ch. 465, § 4, eff. June 11, 1991](#); [Acts 1995, 74th Leg., ch. 67, § 3, eff. Sept. 1, 1995](#); [Acts 1997, 75th Leg., ch. 1279, § 1, eff. Sept. 1, 1997](#); [Acts 2003, 78th Leg., ch. 1276, § 9.001\(a\), eff. Sept. 1, 2003](#); [Acts 2005, 79th Leg., ch. 97, § 7, eff. Sept. 1, 2005](#); [Acts 2005, 79th Leg., ch. 265, § 6.001, eff. Sept. 1, 2005](#); [Acts 2007, 80th Leg., ch. 61, § 1, eff. Sept. 1, 2007](#); [Acts 2007, 80th Leg., ch. 393, § 1, eff. June 15, 2007](#); [Acts 2007, 80th Leg., ch. 593, § 2.01, eff. Sept. 1, 2007](#); [Acts 2011, 82nd Leg., ch.](#)

122 (H.B. 3000), § 6, eff. Sept. 1, 2011; Acts 2011, 82nd Leg., ch. 1087 (S.B. 1209), § 6, eff. Sept. 1, 2011; Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 34, eff. Sept. 1, 2013.

Footnotes

1 45 U.S.C.A. § 51 et seq.

2 46 U.S.C.A. § 688.

V. T. C. A., Government Code § 23.101, TX GOVT § 23.101

Current through the end of the 2013 Third Called Session of the 83rd Legislature

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 23. General Provisions for Trial Courts
Subchapter B. Priority in Setting Hearings and Trials

V.T.C.A., Government Code § 23.102

§ 23.102. Secondary Priorities

Currentness

A matter not included in [Section 23.101](#) shall be set at the discretion of the trial court in which the matter is pending, observing the following priorities:

- (1) precedence should be given to matters where delay will cause physical or economic injury to either the parties or the public;
- (2) matters involving substantial substantive or constitutional rights should take precedence over matters involving permits, licenses, or privileges;
- (3) precedence should be given matters involving important issues that greatly concern the public or materially affect the public welfare; and
- (4) precedence should be given matters involving complete restoration of a ward's capacity or modification of a ward's guardianship.

Credits

Acts 1985, 69th Leg., ch. 480, § 1, eff. Sept. 1, 1985. Amended by [Acts 1999, 76th Leg., ch. 829, § 1, eff. Sept. 1, 1999](#).

V. T. C. A., Government Code § 23.102, TX GOVT § 23.102

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 23. General Provisions for Trial Courts
Subchapter B. Priority in Setting Hearings and Trials

V.T.C.A., Government Code § 23.103

§ 23.103. Effect on Other Laws

Currentness

Sections 23.101 and 23.102 do not affect a statute directing a specific court to give preference to cases involving that court's criminal jurisdiction, family law jurisdiction, or other specified jurisdiction.

Credits

Acts 1985, 69th Leg., ch. 480, § 1, eff. Sept. 1, 1985.

V. T. C. A., Government Code § 23.103, TX GOVT § 23.103

Current through the end of the 2013 Third Called Session of the 83rd Legislature

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Vernon's Texas Statutes and Codes Annotated
Penal Code (Refs & Annos)
Title 8. Offenses Against Public Administration
Chapter 38. Obstructing Governmental Operation

V.T.C.A., Penal Code § 38.122

§ 38.122. Falsely Holding Oneself Out as a Lawyer

[Currentness](#)

(a) A person commits an offense if, with intent to obtain an economic benefit for himself or herself, the person holds himself or herself out as a lawyer, unless he or she is currently licensed to practice law in this state, another state, or a foreign country and is in good standing with the State Bar of Texas and the state bar or licensing authority of any and all other states and foreign countries where licensed.

(b) An offense under Subsection (a) of this section is a felony of the third degree.

(c) Final conviction of falsely holding oneself out to be a lawyer is a serious crime for all purposes and acts, specifically including the State Bar Rules.

Credits

Added by [Acts 1993, 73rd Leg., ch. 723, § 5, eff. Sept. 1, 1993](#).

[Notes of Decisions \(32\)](#)

V. T. C. A., Penal Code § 38.122, TX PENAL § 38.122

Current through the end of the 2013 Third Called Session of the 83rd Legislature

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Vernon's Texas Statutes and Codes Annotated
Penal Code (Refs & Annos)
Title 8. Offenses Against Public Administration
Chapter 38. Obstructing Governmental Operation

V.T.C.A., Penal Code § 38.123

§ 38.123. Unauthorized Practice of Law

Currentness

(a) A person commits an offense if, with intent to obtain an economic benefit for himself or herself, the person:

(1) contracts with any person to represent that person with regard to personal causes of action for property damages or personal injury;

(2) advises any person as to the person's rights and the advisability of making claims for personal injuries or property damages;

(3) advises any person as to whether or not to accept an offered sum of money in settlement of claims for personal injuries or property damages;

(4) enters into any contract with another person to represent that person in personal injury or property damage matters on a contingent fee basis with an attempted assignment of a portion of the person's cause of action; or

(5) enters into any contract with a third person which purports to grant the exclusive right to select and retain legal counsel to represent the individual in any legal proceeding.

(b) This section does not apply to a person currently licensed to practice law in this state, another state, or a foreign country and in good standing with the State Bar of Texas and the state bar or licensing authority of any and all other states and foreign countries where licensed.

(c) Except as provided by Subsection (d) of this section, an offense under Subsection (a) of this section is a Class A misdemeanor.

(d) An offense under Subsection (a) of this section is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under Subsection (a) of this section.

Credits

Added by Acts 1993, 73rd Leg., ch. 723, § 5, eff. Sept. 1, 1993.

Notes of Decisions (3)

V. T. C. A., Penal Code § 38.123, TX PENAL § 38.123

Current through the end of the 2013 Third Called Session of the 83rd Legislature

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Vernon's Texas Statutes and Codes Annotated

Family Code (Refs & Annos)

Title 5. The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship (Refs & Annos)

Subtitle A. General Provisions

Chapter 105. Settings, Hearings, and Orders (Refs & Annos)

V.T.C.A., Family Code § 105.002

§ 105.002. Jury

Effective: September 1, 2003

[Currentness](#)

- (a) Except as provided by Subsection (b), a party may demand a jury trial.
- (b) A party may not demand a jury trial in:
- (1) a suit in which adoption is sought, including a trial on the issue of denial or revocation of consent to the adoption by the managing conservator; or
 - (2) a suit to adjudicate parentage under Chapter 160.
- (c) In a jury trial:
- (1) a party is entitled to a verdict by the jury and the court may not contravene a jury verdict on the issues of:
 - (A) the appointment of a sole managing conservator;
 - (B) the appointment of joint managing conservators;
 - (C) the appointment of a possessory conservator;
 - (D) the determination of which joint managing conservator has the exclusive right to designate the primary residence of the child;
 - (E) the determination of whether to impose a restriction on the geographic area in which a joint managing conservator may designate the child's primary residence; and

(F) if a restriction described by Paragraph (E) is imposed, the determination of the geographic area within which the joint managing conservator must designate the child's primary residence; and

(2) the court may not submit to the jury questions on the issues of:

(A) support under Chapter 154 or Chapter 159;

(B) a specific term or condition of possession of or access to the child; or

(C) any right or duty of a conservator, other than the determination of which joint managing conservator has the exclusive right to designate the primary residence of the child under Subdivision (1)(D).

(d) Repealed by [Acts 2003, 78th Leg., ch. 1036, § 22](#).

Credits

Added by [Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995](#). Amended by [Acts 1995, 74th Leg., ch. 751, § 12, eff. Sept. 1, 1995](#); [Acts 1997, 75th Leg., ch. 180, § 1, eff. Sept. 1, 1997](#); [Acts 1999, 76th Leg., ch. 556, § 3, eff. Sept. 1, 1999](#); [Acts 2001, 77th Leg., ch. 821, § 2.10, eff. June 14, 2001](#); [Acts 2003, 78th Leg., ch. 1036, §§ 2, 22, eff. Sept. 1, 2003](#).

[Notes of Decisions \(71\)](#)

V. T. C. A., Family Code § 105.002, TX FAMILY § 105.002

Current through the end of the 2013 Third Called Session of the 83rd Legislature

Vernon's Texas Statutes and Codes Annotated

Family Code (Refs & Annos)

Title 5. The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship (Refs & Annos)

Subtitle B. Suits Affecting the Parent-Child Relationship

Chapter 162. Adoption (Refs & Annos)

Subchapter A. Adoption of a Child

V.T.C.A., Family Code § 162.012

§ 162.012. Direct or Collateral Attack

Currentness

(a) Notwithstanding [Rule 329, Texas Rules of Civil Procedure](#), the validity of an adoption order is not subject to attack after six months after the date the order was signed.

(b) The validity of a final adoption order is not subject to attack because a health, social, educational, and genetic history was not filed.

Credits

Added by [Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995](#). Amended by [Acts 1997, 75th Leg., ch. 601, § 1, eff. Sept. 1, 1997](#); [Acts 1997, 75th Leg., ch. 600, § 2, eff. Jan. 1, 1998](#).

[Notes of Decisions \(4\)](#)

V. T. C. A., Family Code § 162.012, TX FAMILY § 162.012

Current through the end of the 2013 Third Called Session of the 83rd Legislature

Vernon's Texas Statutes and Codes Annotated

Family Code (Refs & Annos)

Title 5. The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship (Refs & Annos)

Subtitle E. Protection of the Child

Chapter 262. Procedures in Suit by Governmental Entity to Protect Health and Safety of Child (Refs & Annos)

Subchapter C. Adversary Hearing

V.T.C.A., Family Code § 262.201

§ 262.201. Full Adversary Hearing; Findings of the Court

Effective: September 1, 2013

[Currentness](#)

(a) Unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession and the temporary order, if any, has been dissolved, a full adversary hearing shall be held not later than the 14th day after the date the child was taken into possession by the governmental entity, unless the court grants an extension under Subsection (a-3).

(a-1) Before commencement of the full adversary hearing, the court must inform each parent not represented by an attorney of:

(1) the right to be represented by an attorney; and

(2) if a parent is indigent and appears in opposition to the suit, the right to a court-appointed attorney.

(a-2) If a parent claims indigence and requests the appointment of an attorney before the full adversary hearing, the court shall require the parent to complete and file with the court an affidavit of indigence. The court may hear evidence to determine whether the parent is indigent. If the court determines the parent is indigent, the court shall appoint an attorney to represent the parent.

(a-3) The court may, for good cause shown, postpone the full adversary hearing for not more than seven days from the date of the attorney's appointment to provide the attorney time to respond to the petition and prepare for the hearing. The court may shorten or lengthen the extension granted under this subsection if the parent and the appointed attorney agree in writing. If the court postpones the full adversary hearing, the court shall extend a temporary restraining order issued by the court for the protection of the child until the date of the rescheduled full adversary hearing.

(b) At the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:

(1) there was a danger to the physical health or safety of the child which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child;

(2) the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child's removal; and

(3) reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home.

(c) If the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a continuing danger to the physical health or safety of the child and for the child to remain in the home is contrary to the welfare of the child, the court shall issue an appropriate temporary order under Chapter 105. The court shall require each parent, alleged father, or relative of the child before the court to complete the proposed child placement resources form provided under [Section 261.307](#) and file the form with the court, if the form has not been previously filed with the court, and provide the Department of Family and Protective Services with information necessary to locate any other absent parent, alleged father, or relative of the child. The court shall inform each parent, alleged father, or relative of the child before the court that the person's failure to submit the proposed child placement resources form will not delay any court proceedings relating to the child. The court shall inform each parent in open court that parental and custodial rights and duties may be subject to restriction or to termination unless the parent or parents are willing and able to provide the child with a safe environment. If the court finds that the child requires protection from family violence by a member of the child's family or household, the court shall render a protective order under Title 4¹ for the child. In this subsection, "family violence" has the meaning assigned by [Section 71.004](#).

(d) In determining whether there is a continuing danger to the physical health or safety of the child, the court may consider whether the household to which the child would be returned includes a person who:

(1) has abused or neglected another child in a manner that caused serious injury to or the death of the other child; or

(2) has sexually abused another child.

(e) The court shall place a child removed from the child's custodial parent with the child's noncustodial parent or with a relative of the child if placement with the noncustodial parent is inappropriate, unless placement with the noncustodial parent or a relative is not in the best interest of the child.

(f) When citation by publication is needed for a parent or alleged or probable father in an action brought under this chapter because the location of the parent, alleged father, or probable father is unknown, the court may render a temporary order without delay at any time after the filing of the action without regard to whether notice of the citation by publication has been published.

(g) For the purpose of determining under Subsection (a) the 14th day after the date the child is taken into possession, a child is considered to have been taken into possession by the department on the expiration of the five-day period permitted under [Section 262.007\(c\)](#) or [262.110\(b\)](#), as appropriate.

Credits

Added by [Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995](#). Amended by [Acts 1995, 74th Leg., ch. 751, § 107, eff. Sept. 1, 1995](#); [Acts 1997, 75th Leg., ch. 575, § 21, eff. Sept. 1, 1997](#); [Acts 1997, 75th Leg., ch. 600, § 5, eff. Jan. 1, 1998](#); [Acts](#)

1997, 75th Leg., ch. 603, § 1, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 752, § 3, eff. June 17, 1997; Acts 1997, 75th Leg., ch. 1022, § 77, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1022, § 78, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, § 6.31, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1150, § 20, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, § 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 306, § 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 849, § 4, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 268, § 1.34(a), eff. Sept. 1, 2005; Acts 2009, 81st Leg., ch. 856, § 2, eff. Sept. 1, 2009; Acts 2013, 83rd Leg., ch. 810 (S.B. 1759), § 9, eff. Sept. 1, 2013.

Notes of Decisions (28)

Footnotes

1 V.T.C.A., Family Code § 71.001 et seq.

V. T. C. A., Family Code § 262.201, TX FAMILY § 262.201

Current through the end of the 2013 Third Called Session of the 83rd Legislature

Vernon's Texas Statutes and Codes Annotated

Family Code (Refs & Annos)

Title 5. The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship (Refs & Annos)

Subtitle E. Protection of the Child

Chapter 263. Review of Placement of Children Under Care of Department of Family and Protective Services (Refs & Annos)

Subchapter E. Final Order for Child Under Department Care

V.T.C.A., Family Code § 263.401

§ 263.401. Dismissal After One Year; Extension

Effective: June 15, 2007

[Currentness](#)

(a) Unless the court has commenced the trial on the merits or granted an extension under Subsection (b), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court shall dismiss the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child.

(b) Unless the court has commenced the trial on the merits, the court may not retain the suit on the court's docket after the time described by Subsection (a) unless the court finds that extraordinary circumstances necessitate the child remaining in the temporary managing conservatorship of the department and that continuing the appointment of the department as temporary managing conservator is in the best interest of the child. If the court makes those findings, the court may retain the suit on the court's docket for a period not to exceed 180 days after the time described by Subsection (a). If the court retains the suit on the court's docket, the court shall render an order in which the court:

(1) schedules the new date on which the suit will be dismissed if the trial on the merits has not commenced, which date must be not later than the 180th day after the time described by Subsection (a);

(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the trial on the merits on a date not later than the date specified under Subdivision (1).

(c) If the court grants an extension but does not commence the trial on the merits before the required date for dismissal under Subsection (b), the court shall dismiss the suit. The court may not grant an additional extension that extends the suit beyond the required date for dismissal under Subsection (b).

(d) Repealed by [Acts 2007, 80th Leg., ch. 866, § 5](#).

Credits

Added by Acts 1997, 75th Leg., ch. 600, § 17, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 603, § 12, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1022, § 90, eff. Jan. 1, 1998. Amended by Acts 2001, 77th Leg., ch. 1090, § 8, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 268, § 1.40, eff. Sept. 1, 2005; Acts 2007, 80th Leg., ch. 866, §§ 2, 5, eff. June 15, 2007.

[Notes of Decisions \(105\)](#)

V. T. C. A., Family Code § 263.401, TX FAMILY § 263.401

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Vernon's Texas Statutes and Codes Annotated

Family Code (Refs & Annos)

Title 5. The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship (Refs & Annos)

Subtitle E. Protection of the Child

Chapter 263. Review of Placement of Children Under Care of Department of Family and Protective Services (Refs & Annos)

Subchapter E. Final Order for Child Under Department Care

V.T.C.A., Family Code § 263.402

§ 263.402. Limit on Extension; Waiver

Effective: June 15, 2007

[Currentness](#)

(a) The parties to a suit under this chapter may not extend the deadlines set by the court under this subchapter by agreement or otherwise.

(b) A party to a suit under this chapter who fails to make a timely motion to dismiss the suit under this subchapter waives the right to object to the court's failure to dismiss the suit. A motion to dismiss under this subsection is timely if the motion is made before the trial on the merits commences.

Credits

Added by Acts 1997, 75th Leg., ch. 600, § 17, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 603, § 12, eff. Jan. 1, 1997; Acts 1997, 75th Leg., ch. 1022, § 90, eff. Jan. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1390, § 48, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1090, § 9, eff. Sept. 1, 2001; Acts 2007, 80th Leg., ch. 866, § 3, eff. June 15, 2007.

[Notes of Decisions \(10\)](#)

V. T. C. A., Family Code § 263.402, TX FAMILY § 263.402

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