

COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS

In re Quintilya Thomas

No. 08-26-00120-CV · No. No. 08-26-00120-CV · Decided March 20, 2026

SUMMARY

The Eighth Court of Appeals of Texas dismissed a relator’s emergency motion for temporary relief and stay because it was filed without an accompanying petition for writ of mandamus. The dismissal was for want of jurisdiction and was without prejudice to refiling after a mandamus petition is filed.

CASE DETAILS

COURT	Court of Appeals for the Eighth District of Texas
WRITING FOR THE COURT	Maria Salas Mendoza, Chief Justice; Palafox, Justice; Soto, Justice
JURISDICTION	Court of Appeals for the Eighth District of Texas
DECIDED	March 20, 2026
DOCKET	No. 08-26-00120-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original proceeding in mandamus involving an emergency motion for temporary relief and a stay pending mandamus.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Quintilya Thomas v. The State of Texas

TOPICS

- appellate jurisdiction
- appellate procedure
- civil procedure
- remedies

PRACTICE AREAS

- Appellate procedure
- Mandamus
- Civil procedure
- Extraordinary relief

QUESTIONS PRESENTED

1. Whether the Court of Appeals has jurisdiction to consider a motion for temporary relief pending mandamus when the relator has not filed a petition for writ of mandamus.

HOLDINGS

1. A relator must file a petition for writ of mandamus to commence an original appellate proceeding; a motion for temporary relief pending mandamus filed without a petition does not invoke the Court of Appeals' jurisdiction.

KEY QUOTATIONS

“To commence an original appellate proceeding seeking extraordinary relief, a relator must file a petition with the clerk of the appellate court.”

“Because Relator has not commenced an original proceeding, we lack jurisdiction over her motion seeking emergency relief.”

FACTUAL BACKGROUND

Quintilya Thomas sought emergency temporary relief and a stay of alleged default temporary orders entered by the 388th District Court. Her emergency motion was not accompanied by a petition for writ of mandamus. The appellate court therefore concluded that no original proceeding had been commenced and that it lacked jurisdiction over the motion.

PROCEDURAL HISTORY

Relator filed an emergency motion seeking an immediate stay of alleged default temporary orders entered by the 388th District Court. Because she did not accompany the motion with a petition for writ of mandamus, the Court of Appeals dismissed the motion for want of jurisdiction, without prejudice to refiling after a petition is filed.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

None. The dismissal is without prejudice to refiling after a petition for writ of mandamus has been filed.

CASES CITED

- In re Hicks, 524 S.W.3d 307 (Tex. App.—Waco 2016, orig. proceeding)
- In re Kelleher, 999 S.W.2d 51, 52 (Tex. App.—Amarillo 1999, orig. proceeding)
- In re Nonamé, No. 03-25-00937-CV, 2025 WL 3491569, at *1 (Tex. App.—Austin Dec. 5, 2025, orig. proceeding) (mem. op.)

OPINION

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS No. 08-26-00120-CV In re Quintilya Thomas AN ORIGINAL PROCEEDING IN MANDAMUS M E M O R A N D U M O P I N I O N Pending before the Court is Relator’s emergency motion for temporary relief

and stay pending mandamus, in which she requests that this Court immediately stay enforcement of default temporary orders allegedly entered by the 388th District Court.

Because the motion is not accompanied by a petition, we dismiss the motion for want of jurisdiction. To commence an original appellate proceeding seeking extraordinary relief, a relator must file a petition with the clerk of the appellate court. Tex. R. App. P. 52.1. Once the original proceeding has commenced, a party may seek temporary relief pending the court's action on the petition.

Tex. R. App. P. 52.10(a), (b). Although Rule 52.10(b) authorizes this Court to grant temporary relief, it implicitly requires a petition to invoke our jurisdiction. See Tex. R. App. P. 52.10(b); see also *In re Hicks*, 524 S.W.3d 307 (Tex. App.—Waco 2016, orig. proceeding) (finding an emergency motion filed without a petition to be “premature” and dismissing the motion); *In re Kelleher*, 999 S.W.2d 51, 52 (Tex.

App.—Amarillo 1999, orig. proceeding) (“Implicit within this rule is the need for a petition to be filed before the court can grant emergency relief.”); *In re Nonamé*, No. 03-25-00937-CV, 2025 WL 3491569, at *1 (Tex. App.—Austin Dec. 5, 2025, orig. proceeding) (mem. op.) (dismissing for want of jurisdiction a motion for temporary relief without a petition).

Because Relator has not commenced an original proceeding, we lack jurisdiction over her motion seeking emergency relief. We dismiss the motion for want of jurisdiction without prejudice to refiling after a petition for writ of mandamus has been filed. MARIA SALAS MENDOZA, Chief Justice March 20, 2026 Before Salas Mendoza, C.J., Palafox and Soto, JJ. 2