

TEXAS COURT OF CRIMINAL APPEALS

In re Texas Department of Criminal Justice

No. WR-97,366-01 (Tex. Crim. App. Apr. 16, 2026) · No. WR-97,366-01 · Decided April 16, 2026

SUMMARY

The Texas Court of Criminal Appeals granted the Texas Department of Criminal Justice leave to file a mandamus petition and held that the dispute was not moot under the capable-of-repetition-yet-evading-review exception. The court concluded that the convicting court lacked authority under Texas Code of Criminal Procedure article 11.071 to issue an ex parte order requiring an inmate to be unshackled during expert visits. Relief was granted, and the respondent was ordered to rescind the ex parte unshackling order; the court lifted the related stays and ordered immediate issuance of the mandate.

CASE DETAILS

COURT	Texas Court of Criminal Appeals
WRITING FOR THE COURT	Per curiam
JURISDICTION	Texas Court of Criminal Appeals
DECIDED	April 16, 2026
DOCKET	WR-97,366-01
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original proceeding on the Texas Department of Criminal Justice's motion for leave to file a petition for writ of mandamus and accompanying petition challenging an ex parte trial-court order requiring the removal of a death-sentenced inmate's restraints during expert visits.
STANDARD OF REVIEW	Mandamus requires the relator to establish both the absence of an adequate remedy at law and a ministerial act that the respondent has a clear duty to perform. The ministerial-act inquiry requires a violation of unequivocal, well-settled, and clearly controlling law under which the facts dictate only one rational decision.
PRECEDENTIAL VALUE	unpublished; not designated for publication
PARTIES	Texas Department of Criminal Justice v. Diane Navarrete, Respondent

TOPICS

writ of certiorari

mootness

appellate procedure

post-conviction relief

criminal procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

appellate procedure

mandamus

QUESTIONS PRESENTED

1. Whether TDCJ's mandamus challenge to the expired ex parte unshackling order was moot or fell within the capable-of-repetition-yet-evading-review exception.
2. Whether TDCJ had an adequate remedy at law despite having moved the trial court to vacate the challenged order.
3. Whether the trial court violated a ministerial duty by considering and granting an ex parte request to unshackle a death-sentenced inmate when Texas Code of Criminal Procedure article 11.071 expressly authorizes ex parte communications only for prepayment or reimbursement of expenses.

HOLDINGS

1. The mandamus challenge was reviewable under the capable-of-repetition-yet-evading-review exception because the challenged action was too brief to be fully litigated before expiration and TDCJ reasonably could face another substantially similar order.
2. TDCJ lacked an adequate legal remedy because it could not appeal or otherwise contest the ex parte unshackling order, and the ability to ask the issuing court to vacate an unwelcome order did not constitute an adequate remedy in these circumstances.
3. The trial court violated a ministerial duty by considering and granting an ex parte request to unshackle Chavez. Article 11.071 authorizes ex parte communications only for the prepayment or reimbursement of expenses, not for obtaining an order concerning an inmate's restraints.

KEY QUOTATIONS

“The only ex parte communications expressly authorized by Article 11.071 relate to the prepayment or reimbursement of expenses.” (11-12)

“Here, the Ex Parte Unshackling Order does not relate to the prepayment or reimbursement of expenses. So Respondent had no authority to consider, much less grant, Chavez’s request for it.” (12)

FACTUAL BACKGROUND

Facundo Chavez was convicted of capital murder and sentenced to death in August 2023. Before filing his initial postconviction habeas application, Chavez's counsel obtained an ex parte order requiring TDCJ to remove his restraints during February 2026 contact visits with a neuropsychologist at a TDCJ facility. TDCJ challenged that order by mandamus, but the order expired before the petition was transmitted; the trial court later entered a similar public order concerning March visits.

PROCEDURAL HISTORY

Facundo Chavez was convicted of capital murder and sentenced to death in the Criminal District Court No. 1 of El Paso County. Before Chavez filed his initial postconviction habeas application, his habeas counsel obtained an ex parte order directing TDCJ to remove Chavez's restraints during scheduled expert visits. TDCJ sought mandamus relief and a stay in the Court of Criminal Appeals. Although the challenged order expired, the court held the controversy capable of repetition yet evading review, granted leave to file, and reached the merits.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The respondent shall immediately rescind the Ex Parte Unshackling Order. The First and Second Stays are lifted. The clerk shall issue mandate immediately. No motions for rehearing will be entertained.

CASES CITED

- Padilla v. McDaniel, 122 S.W.3d 805, 808 (Tex. Crim. App. 2003)
- In re City of Lubbock, 666 S.W.3d 546, 556, 566 (Tex. Crim. App. 2023)
- Tex. Dep't of Family & Protective Services v. N.J., 644 S.W.3d 189, 192 (Tex. 2022)
- State ex rel. Best v. Harper, 562 S.W.3d 1, 6 (Tex. 2018)
- Weinstein v. Bradford, 423 U.S. 147, 149 (1975)
- General Land Office of State of Tex. v. OXY U.S.A., Inc., 789 S.W.2d 569, 571 (Tex. 1990)
- Ex parte Bohannon, 350 S.W.3d 116, 119-20 (Tex. Crim. App. 2011)
- In re Univ. of Tex. Med. Branch-Galveston, 677 S.W.3d 696, 697-98 (Tex. Crim. App. 2023)
- In re TDCJ, No. WR-91,688-01, slip op. at 1-6 (Tex. Crim. App. June 14, 2023) (not designated for publication)
- In re State ex rel. Young v. Sixth Jud. Dist. Court of Appeals at Texarkana, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007)
- State ex rel. Rosenthal v. Poe, 98 S.W.3d 194, 203 (Tex. Crim. App. 2003)
- Greenwell v. Court of Appeals for Thirteenth Jud. Dist., 159 S.W.3d 645, 648-49 (Tex. Crim. App. 2005)
- In re Medina, 475 S.W.3d 291, 298 (Tex. Crim. App. 2015)