

**COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS
AT FORT WORTH**

In re M.S.

No. 02-26-00016-CV · No. 02-26-00016-CV · Decided January 20, 2026

SUMMARY

The Texas Court of Appeals for the Second District denied the mother's petition for a writ of mandamus seeking to vacate a temporary orders ruling and obtain sole managing conservatorship of her child. The court held that she failed to exercise diligence because she waited approximately eight months after the written order, and fourteen months after the oral ruling, to seek mandamus relief. The court also noted that she had not sought to set her underlying modification petition for a final hearing.

OPINION

PER CURIAM.

In the Court of Appeals Second Appellate District of Texas at Fort Worth
_____ No. 02-26-00016-CV _____ IN RE
M.S., Relator Original Proceeding 231st District Court of Tarrant County, Texas Trial Court No.
231-687524-20 Before Walker, Kerr, and Womack, JJ. Per Curiam Memorandum Opinion
MEMORANDUM OPINION Relator Mother seeks a writ of mandamus to compel the trial court
to (1) vacate its May 2025 order and (2) issue temporary orders appointing her as her child's sole
managing conservator and removing any conservatorship rights of the Real Party in Interest
Nonparent.¹ Because Mother has not used diligence, we deny her petition for writ of mandamus.

I. LEGAL PRINCIPLES Although mandamus is a legal remedy, equitable principles largely
control it. In re C.B., No. 02-25-00026-CV, 2025 WL 728233, at *2–3 (Tex. App.—Fort Worth
Mar. 6, 2025, orig. proceeding [mand. denied]) (mem. op.). One such principle is that equity aids
the diligent and not those who slumber on their rights. *Id.* Thus, undue or unreasonable delays
may waive a relator's right to relief unless the delay is justified.

Id. Whether a relator's delay in asserting its rights precludes mandamus relief is a fact-
specific inquiry. *Id.* II. APPLICATION In June 2024, Mother filed a petition to modify the parent-child
relationship seeking to have herself appointed as her child's sole managing conservator and to
terminate Nonparent's status as the child's joint managing conservator.

In July 2024, To protect the child's identity, we refer to the parties by their relationship to 1 him.
See Tex. Fam. Code Ann. § 109.002(d); Tex. R. App. P. 9.8(b)(2). 2 In an "Associate Judge's
Report," the associate judge denied—as temporary orders— Mother the relief that she sought.

Mother requested a de novo hearing, which the trial court conducted in November 2024, and the trial court, like the associate judge, refused to grant Mother her requested relief.

Because this ruling was on the record, Mother could have sought mandamus relief at this point. See Tex. Fam. Code Ann. § 101.026 (stating that a judge renders a decision when ruling “orally in the presence of the court reporter”); *In re Bledsoe*, 41 S.W.3d 807, 811 (Tex. App.—Fort Worth 2001, orig. proceeding) (stating that courts may consider oral orders if they are clear, specific, enforceable, and adequately shown by the record).

But the trial court did not sign a written order reflecting that ruling until May 2025—about six months later. This May 2025 order is the order from which Mother seeks relief. Thus, Mother waited until January 2026—approximately eight months after the order was signed and about fourteen months after the trial court made an oral ruling on the record—to file her petition for writ of mandamus.

Mother was not totally idle during all those months. In September 2025, she filed in the trial court a motion to reconsider.² The trial court purportedly heard this motion in December 2025 and denied it, but Mother has provided neither a reporter’s ² Various statutes supporting Mother’s position became effective September 1, 2025. See Act of May 15, 2025, 89th Leg., R.S., ch.236, §§ 1, 2, 3, 4, 5, sec. 102.0031, 2025 Tex. Sess.

Law Serv. —, — (to be codified as Tex. Fam. Code §§ 102.0031, 153.002, 153.008). Mother relied on Sections 153.002 and 153.008 in her September 2025 motion to reconsider. ³ record of the hearing nor a written, signed order. Regardless, the order from which Mother seeks relief is the May 2025 order.

We further note that despite Mother’s dissatisfaction with the temporary orders, our record does not show that she has sought to have her petition to modify set for a final hearing. Thus, Mother’s petition to modify has been pending for a year and a half. Cf. Tex. Fam. Code Ann. § 263.401(a), (b) (requiring termination proceedings to be tried within one year with a possible 180-day extension for “extraordinary circumstances”).

III. CONCLUSION We deny Mother’s petition for writ of mandamus. See C.B., 2025 WL 728233, at *2–3. Per Curiam Delivered: January 20, 2026 4