

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.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Walker; Kerr; Womack
JURISDICTION	Court of Appeals for the Second Appellate District of Texas at Fort Worth
DECIDED	January 20, 2026
DOCKET	02-26-00016-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original mandamus proceeding in which Mother sought to compel the trial court to vacate a temporary-orders ruling and issue temporary orders appointing her as the child's sole managing conservator and removing the Nonparent's conservatorship rights.
STANDARD OF REVIEW	Whether delay precludes mandamus relief is a fact-specific inquiry; undue or unreasonable delay may waive the right to mandamus relief unless justified.
PRECEDENTIAL VALUE	Published memorandum opinion; the opinion itself states that the petition for writ of mandamus is denied.
PARTIES	M.S., Relator (Mother) v. The State of Texas, Real Party in Interest Nonparent

TOPICS

family law procedure

appellate procedure

child custody

parental rights

writ of certiorari

PRACTICE AREAS

family law

appellate procedure

mandamus

QUESTIONS PRESENTED

1. Whether Mother was entitled to mandamus relief compelling the trial court to vacate its May 2025 temporary-orders order.
2. Whether Mother's delay in seeking mandamus relief was unreasonable and therefore barred relief under the equitable diligence requirement.

HOLDINGS

1. A relator's undue or unreasonable delay in asserting a right may waive entitlement to mandamus relief unless the delay is justified, because equitable principles governing mandamus require diligence.
2. Mother was not entitled to mandamus relief because she failed to exercise diligence in challenging the trial court's ruling.

KEY QUOTATIONS

"Thus, undue or unreasonable delays may waive a relator's right to relief unless the delay is justified." (at 2)

"We deny Mother's petition for writ of mandamus." (at 4)

FACTUAL BACKGROUND

Mother sought to be appointed the child's sole managing conservator and to terminate the Nonparent's status as joint managing conservator. The associate judge and, after a de novo hearing, the trial court denied that requested temporary relief. Although the trial court orally ruled in November 2024, Mother waited until January 2026 to seek mandamus, approximately eight months after the written order and fourteen months after the oral ruling.

PROCEDURAL HISTORY

Mother filed a petition to modify the parent-child relationship in June 2024. An associate judge denied her requested temporary relief in July 2024, and the trial court denied the same relief after a de novo hearing in November 2024. The trial court signed a written order in May 2025. Mother filed a motion to reconsider in September 2025 and then sought mandamus relief in January 2026. The court of appeals denied the petition because of her lack of diligence.

DISPOSITION

writ_denied

CASES CITED

- 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.)
- In re Bledsoe, 41 S.W.3d 807, 811 (Tex. App.—Fort Worth 2001, orig. proceeding)

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