

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

In re P.R.

No. 02-25-00543-CV (Tex. App.—Fort Worth Dec. 11, 2025) · No. 02-25-00543-CV · Decided December 11, 2025

SUMMARY

The Texas Court of Appeals for the Second District conditionally granted mandamus relief in a divorce-related SAPCR involving a stepmother’s asserted standing to seek conservatorship of a child. The court held that the stepmother did not satisfy the Family Code’s requirement that a nonparent have shared a principal residence with the child within 90 days before filing suit, and it rejected application of the relation-back doctrine. The court directed the trial court to vacate its order, grant the father’s plea to the jurisdiction, and dismiss the SAPCR and temporary orders.

CASE DETAILS

COURT	Court of Appeals for the Second District of Texas at Fort Worth
WRITING FOR THE COURT	Bonnie Sudderth, Chief Justice; Kerr, Justice; Womack, Justice
JURISDICTION	Texas Court of Appeals, Second Appellate District, Fort Worth
DECIDED	December 11, 2025
DOCKET	02-25-00543-CV
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original proceeding on a petition for writ of mandamus challenging the trial court's denial of a plea to the jurisdiction seeking dismissal of a nonparent's suit affecting the parent-child relationship in a pending divorce.
STANDARD OF REVIEW	Standing is a question of law reviewed de novo. When jurisdictional facts are undisputed, the jurisdictional determination is made as a matter of law. Mandamus relief requires a clear misapplication of the law by the trial court in denying the plea to the jurisdiction.
PRECEDENTIAL VALUE	Published and precedential memorandum opinion
PARTIES	P.R.

TOPICS

family law procedure

writ of certiorari

standing

subject matter jurisdiction

statutory interpretation

PRACTICE AREAS

family law

appellate procedure

civil procedure

constitutional law

QUESTIONS PRESENTED

1. Whether E.S. had standing under Texas Family Code Section 102.003(a)(9) to file a SAPCR when she had not shared a principal residence with the child within ninety days before filing.
2. Whether the relation-back doctrine could measure E.S.'s standing from the date of her original divorce counterpetition rather than the later filing of the SAPCR.
3. Whether the trial court abused its discretion by denying P.R.'s plea to the jurisdiction and retaining the SAPCR and temporary orders.

HOLDINGS

1. A nonparent seeking standing under Section 102.003(a)(9) must have had actual care, control, and possession of the child for at least six months ending no more than ninety days before filing the SAPCR, including the required parent-like relationship and principal-residence component. E.S. lacked standing because she had not shared a principal residence with the child during the ninety-day period preceding her SAPCR filing.
2. The relation-back doctrine could not be used to measure E.S.'s Section 102.003(a)(9) standing from the date of her original divorce counterpetition because the SAPCR was a new and different claim from the divorce under the applicable Family Code provisions.
3. Mandamus relief was proper because the trial court abused its discretion by finding that E.S. had standing and denying P.R.'s plea to the jurisdiction.

KEY QUOTATIONS

“a person, other than a foster parent, who has had actual care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition.” (at 6)

“The requirement that the six months’ possession be within ninety days of filing suit prevents persons who do not have a recent or current relationship with the child from disrupting the child’s life with stale claims.” (at 11)

“When a nonparent requests conservatorship or possession of a child, the child’s best interest is embedded with the presumption that it is the fit parent—not a court—who makes the determination whether to allow that request.” (at 11)

“Accordingly, we hold that the trial court abused its discretion by determining that Stepmother had Section 102.003(a)(9) standing to file the SAPCR and by denying Father’s plea to the jurisdiction.” (at 15)

FACTUAL BACKGROUND

P.R.'s daughter was born while P.R. was married to the child's biological mother, who died three months after the child's birth. P.R. later married E.S., who lived with P.R. and the child and provided substantial parent-like care, control, and possession. After the parties separated, E.S. continued caring for the child but no longer shared a principal residence with her. E.S. filed the SAPCR more than ninety days after she and the child ceased sharing a principal residence.

PROCEDURAL HISTORY

P.R. filed for divorce after separating from E.S. E.S., his former stepmother to the child, later filed a supplemental counterpetition seeking joint managing conservatorship and alleging standing under Texas Family Code Section 102.003(a)(9). The trial court denied P.R.'s plea to the jurisdiction, found that E.S. had standing, and entered temporary conservatorship and possession orders. After denying reconsideration, the trial court became the subject of P.R.'s mandamus petition; the court of appeals stayed proceedings while leaving the temporary orders in effect.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The trial court was directed to vacate its order denying P.R.'s plea to the jurisdiction, grant the plea, and dismiss the entire SAPCR, including the temporary orders. The writ would issue only if the trial court failed to comply.

CASES CITED

- In re K.D.H., 426 S.W.3d 879, 882 (Tex. App.—Houston [14th Dist.] 2014, no pet.)
- In re H.S., 550 S.W.3d 151, 155, 160 (Tex. 2018)
- Heckman v. Williamson County, 369 S.W.3d 137, 153 (Tex. 2012)
- In re H.L., 613 S.W.3d 722, 724 (Tex. App.—Fort Worth 2020, no pet.)
- In re Russell, 321 S.W.3d 846, 856 (Tex. App.—Fort Worth 2010, orig. proceeding [mand. denied])
- Hunt v. Bass, 664 S.W.2d 323, 324 (Tex. 1984)
- Tex. Ass'n of Bus. v. Tex. Air Control Bd., 852 S.W.2d 440, 445-46 (Tex. 1993)
- In re H.G., 267 S.W.3d 120, 124 (Tex. App.—San Antonio 2008, pet. denied) (op. on reh'g)
- In re A.G., No. 02-24-00548-CV, 2025 WL 294159, at *2-3 (Tex. App.—Fort Worth Jan. 24, 2025, orig. proceeding) (mem. op.)
- In re Clay, No. 02-18-00404-CV, 2019 WL 545722, at *3 (Tex. App.—Fort Worth Feb. 12, 2019, orig. proceeding [mand. denied]) (mem. op.)
- Jasek v. Tex. Dep't of Fam. & Protective Servs., 348 S.W.3d 523, 527 (Tex. App.—Austin 2011, no pet.)
- In re M.P., No. 13-21-00013-CV, 2022 WL 1572267, at *3 (Tex. App.—Corpus Christi—Edinburg May 19, 2022, no pet.) (mem. op.)
- Bland ISD v. Blue, 34 S.W.3d 547, 554 (Tex. 2000)
- Tex. Dep't of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 228 (Tex. 2004)

- *City of Austin v. Powell*, 704 S.W.3d 437, 446 (Tex. 2024)
- *Slant Operating, LLC v. Octane Energy Operating, LLC*, 717 S.W.3d 409, 415 (Tex. Bus. Ct. 2025, order)
- *In re D.D.L.*, No. 13-22-00062-CV, 2022 WL 3652496, at *5 (Tex. App.—Corpus Christi—Edinburg Aug. 25, 2022, no pet.) (mem. op.)
- *In re D.A.A.-B.*, 657 S.W.3d 549, 576-77 (Tex. App.—El Paso 2022, no pet.) (Palafox, J., concurring)
- *Bowers v. Bowers*, 510 S.W.3d 571, 583 (Tex. App.—El Paso 2016, no pet.)
- *In re B.T.G.*, 494 S.W.3d 839, 841-42 (Tex. App.—Dallas 2016, no pet.) (op. on reh'g)
- *In re A.M.S.*, No. 05-24-00862-CV, 2025 WL 1458308, at *3 (Tex. App.—Dallas May 21, 2025, no pet.) (mem. op.)
- *Leithold v. Plass*, 413 S.W.2d 698, 701 (Tex. 1967)
- *In re Brice*, 648 S.W.3d 293, 296 (Tex. App.—San Antonio 2019, orig. proceeding)
- *Troxel v. Granville*, 530 U.S. 57, 68-71, 120 S. Ct. 2054, 2061-63 (2000)
- *In re C.J.C.*, 603 S.W.3d 804, 820 (Tex. 2020) (orig. proceeding)
- *H.S.*, 660 S.W.3d at 162
- *Jones v. Fowler*, 969 S.W.2d 429, 430, 433 (Tex. 1998)
- *T.W.E. v. K.M.E.*, 828 S.W.2d 806, 808 (Tex. App.—San Antonio 1992, no writ)
- *Rodriguez v. Safeco Ins. Co. of Ind.*, 684 S.W.3d 789, 795 (Tex. 2024)
- *Combs v. Health Care Servs. Corp.*, 401 S.W.3d 623, 630 (Tex. 2013)
- *In re Lee*, 411 S.W.3d 445, 458-61 (Tex. 2013) (orig. proceeding)
- *In re J.O.A.*, 283 S.W.3d 336, 339-47 (Tex. 2009)
- *In re M.S.*, 115 S.W.3d 534, 549 (Tex. 2003)
- *Reyes v. Lott*, No. 14-20-00105-CV, 2022 WL 248122, at *6 (Tex. App.—Houston [14th Dist.] Jan. 27, 2022, no pet.) (mem. op.)