

TEXAS COURT OF APPEALS, ELEVENTH DISTRICT AT EASTLAND

In re Gentri Renee McLean

No. 11-26-00118-CV (Tex. App.—Eastland May 21, 2026) · No. 11-26-00118-CV · Decided May 21, 2026

SUMMARY

The Eleventh Court of Appeals of Texas conditionally granted Gentri Renee McLean’s petition for writ of mandamus challenging temporary orders in a suit affecting the parent-child relationship. The court held that the evidence was legally insufficient to establish that the children’s present circumstances would significantly impair their physical health or emotional development as required by Texas Family Code Section 156.006(b)(1). The court directed the trial judge to vacate the April 9 letter ruling and April 24 temporary orders, and did not reach the challenge to asymmetric drug-testing requirements.

CASE DETAILS

COURT	Texas Court of Appeals, Eleventh District at Eastland
WRITING FOR THE COURT	John M. Bailey, Chief Justice; Trotter, Justice; Williams, Justice
JURISDICTION	Texas Court of Appeals, Eleventh District
DECIDED	May 21, 2026
DOCKET	11-26-00118-CV
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original mandamus proceeding challenging temporary orders in a suit affecting the parent-child relationship.
STANDARD OF REVIEW	Mandamus requires a clear abuse of discretion and no adequate remedy by appeal. A trial court abuses its discretion when its decision is arbitrary and unreasonable, when it could have reached only one conclusion and reached the opposite conclusion, or when it incorrectly determines or applies the law. The appellate court may not substitute its judgment for factual matters committed to the trial court's discretion.
PRECEDENTIAL VALUE	Published memorandum opinion; metadata identifies the opinion as published.
PARTIES	Gentri Renee McLean

TOPICS

family law procedure

child custody

writ of certiorari

appellate procedure

standard of review

PRACTICE AREAS

family law

appellate procedure

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the trial court clearly abused its discretion by changing the designation of the parent with the exclusive right to determine the children's primary residence without legally sufficient evidence that each child's present circumstances would significantly impair the child's physical health or emotional development under Texas Family Code section 156.006(b)(1).
2. Whether Gentri had an adequate remedy by appeal from the challenged temporary orders.
3. Whether the trial court's asymmetric drug-testing requirements were permissible.

HOLDINGS

1. Gentri had no adequate remedy by direct appeal because temporary orders entered while a modification proceeding is pending are interlocutory and are not subject to statutory appeal.
2. A trial court may not temporarily change the designation of the parent with the exclusive right to designate a child's primary residence unless the order is in the child's best interest and is necessary because each child's present circumstances would significantly impair the child's physical health or emotional development. The evidence presented here was legally insufficient to satisfy that requirement.
3. The court did not decide whether the asymmetric drug-testing requirements were permissible because vacatur of the temporary orders in their entirety made it unnecessary to reach that issue.

KEY QUOTATIONS

“A writ of mandamus will issue only if the trial court clearly abused its discretion, and the relator has no adequate remedy by appeal.” (4)

“Pursuant to Section 156.006 of the Texas Family Code, a trial court may not render a temporary order that changes the designation of the person who has the exclusive right to designate the primary residence of the children under the final order unless:” (6)

“Evidence of parental alienation, violations of the divorce decree, or a poor relationship between the joint managing conservators—as in the circumstances before the trial court in this case—is insufficient to establish significant impairment.” (7)

“Consequently, the evidence is legally insufficient to support the trial court’s finding that the children’s present circumstances would significantly impair their physical health or emotional development.” (8)

“As such, the temporary orders in their entirety must be vacated, and we need not address Gentri’s contentions in her second issue.” (9)

FACTUAL BACKGROUND

Gentri and Terry McLean are divorced parents of four children. Their divorce decree gave Gentri the exclusive right to designate the children's primary residence, but Terry later sought modification after alleging that Gentri interfered with his possession and access and used cocaine. Both parents tested positive for cocaine on hair-follicle drug screens, although Terry admitted recent cocaine use and testified that he was unaware of the children's grades, counseling, or any present danger to their physical health. Without additional evidence after withdrawing its initial orders, the trial court appointed Terry sole managing conservator, removed Gentri's residential-designation right, and imposed drug-testing and possession restrictions on Gentri.

PROCEDURAL HISTORY

After the parties' 2025 divorce decree designated Gentri McLean as the parent with the exclusive right to designate the children's primary residence, Terry McLean sought modification and temporary orders. Following a February 25, 2026 hearing, the trial court issued temporary orders appointing Terry sole managing conservator and restricting Gentri's possession and access. The court of appeals had previously conditionally granted mandamus relief because the trial court failed to make the findings required by Texas Family Code section 156.006(b). The trial court withdrew its initial orders, issued new temporary orders without taking additional evidence, and Gentri filed the present mandamus petition. The court of appeals conditionally granted the petition and directed the trial judge to vacate the April 9 letter ruling and April 24 temporary orders.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The court conditionally granted the petition and directed Judge Brent Morgan to vacate the April 9, 2026 letter ruling and the temporary orders signed April 24, 2026. The writ would issue only if he failed to act by June 5, 2026.

CASES CITED

- Walker v. Packer, 827 S.W.2d 833, 839-40 (Tex. 1992) (orig. proceeding)
- In re Prudential Ins. Co. of Am., 148 S.W.3d 124, 135-36 (Tex. 2004) (orig. proceeding)
- In re Walser, 648 S.W.3d 442, 445-46 (Tex. App.—San Antonio 2021, orig. proceeding)
- In re Ostrofsky, 112 S.W.3d 925, 928 (Tex. App.—Houston [14th Dist.] 2003, orig. proceeding)
- In re Cerberus Cap. Mgmt., L.P., 164 S.W.3d 379, 382 (Tex. 2005) (orig. proceeding) (per curiam)
- In re A.L.M.-F., 593 S.W.3d 271, 282 (Tex. 2019)
- In re J.B. Hunt Transp., Inc., 492 S.W.3d 287, 294 (Tex. 2016) (orig. proceeding)
- In re State Farm Lloyds, 520 S.W.3d 595, 604 (Tex. 2017) (orig. proceeding)
- In re McLean, No. 11-26-00075-CV, 2026 WL 899121, at *1-3 (Tex. App.—Eastland Apr. 2, 2026, orig. proceeding) (mem. op.)
- In re Sanchez, 228 S.W.3d 214, 219 (Tex. App.—San Antonio 2007, orig. proceeding)

- In re Payne, No. 10-11-00402-CV, 2011 WL 6091265, at *2-3 (Tex. App.—Waco Dec. 2, 2011, orig. proceeding) (mem. op.)
- In re J.W., No. 02-18-00419-CV, 2019 WL 2223216, at *3 (Tex. App.—Fort Worth May 23, 2019, orig. proceeding) (mem. op.)
- In re Strickland, 358 S.W.3d 818, 821-23 (Tex. App.—Fort Worth 2012, orig. proceeding)
- In re Eddins, No. 05-16-01451-CV, 2017 WL 2443138, at *4 (Tex. App.—Dallas June 5, 2017, orig. proceeding) (mem. op.)
- In re C.G., No. 04-13-00749-CV, 2014 WL 3928612, at *8 (Tex. App.—San Antonio Aug. 13, 2014, no pet.) (mem. op.)
- In re Barker, No. 03-21-00036-CV, 2021 WL 833970, at *7 (Tex. App.—Austin Mar. 4, 2021, orig. proceeding) (mem. op.)
- In re Serio, No. 03-14-00786-CV, 2014 WL 7458735, at *2 (Tex. App.—Austin Dec. 23, 2014, orig. proceeding) (mem. op.)
- In re Haddad, No. 04-25-00484-CV, 2026 WL 517517, at *5 (Tex. App.—San Antonio Feb. 25, 2026, orig. proceeding) (mem. op.)
- In re E.R.D., 671 S.W.3d 682, 689 (Tex. App.—Eastland 2023, no pet.)
- In re Lee, No. 04-19-00440-CV, 2019 WL 3642640, at *4 (Tex. App.—San Antonio Aug. 7, 2019, orig. proceeding) (mem. op.)
- In re Morehead, No. 06-21-00052-CV, 2021 WL 3669607, at *2 (Tex. App.—Texarkana Aug. 18, 2021, orig. proceeding) (mem. op.)
- In re Adkins, No. 04-23-00705-CV, 2024 WL 697093, at *3 (Tex. App.—San Antonio Feb. 21, 2024, orig. proceeding) (mem. op.)
- In re Perricone, No. 11-25-00078-CV, 2025 WL 1184127, at *2, *4 (Tex. App.—Eastland Apr. 24, 2025, orig. proceeding) (mem. op.)
- Schneider v. Schneider, No. 01-22-00774-CV, 2024 WL 3349082, at *7 (Tex. App.—Houston [1st Dist.] July 9, 2024, no pet.) (mem. op.)
- In re R.D.Y., 51 S.W.3d 314, 323 (Tex. App.—Houston [1st Dist.] 2001, pet. denied)
- In re Rodriguez, No. 09-25-00430-CV, 2025 WL 3237080, at *1 (Tex. App.—Beaumont Nov. 20, 2025, orig. proceeding) (mem. op.)
- In re Tullos, No. 12-22-00228-CV, 2022 WL 4793718, at *3 (Tex. App.—Tyler Sept. 30, 2022, orig. proceeding) (mem. op.)