

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

**In re Azhar Mahmood Chaudhary and Azhar Chaudhary Law Firm,
PC**

No. 01-25-00865-CV (Tex. App.—Houston [1st Dist.] Feb. 4, 2026) · No. 01-25-00865-CV · Decided February 4, 2026

OPINION

CONCURRING OPINION.

Opinion issued February 4, 2026 In The Court of Appeals For The First District of Texas NO. 01-25-00865-CV IN RE AZHAR MAHMOOD CHAUDHARY AND AZHAR CHAUDARY LAW FIRM, PC, Relators Original Proceeding on Petition for Writ of Mandamus CONCURRING OPINION When a statute requires a jurat to be in “substantially” a certain form, and the jurat has everything it needs except the declarant’s birthday, what should happen?

The answer may depend on which court of appeals hears the case. I. Section 132.001 of the Texas Civil Practice and Remedies Code allows for “an unsworn declaration [to] be used in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by statute or required by rule, order, or requirement adopted as provided by law.” TEX. CIV.

PRAC. & REM. CODE ANN. § 132.001(a). Any such unsworn declaration “must be: (1) in writing; and (2) subscribed by the person making the declaration as true under the penalty of perjury.” See id. § 132.001(c). Additionally, an unsworn declaration made under this section must also “include a jurat.” See id. §§ 132.001(d)–(f). Helpfully, the Legislature provided exemplars of the required jurats and stated that in an unsworn declaration, the jurat used must be “in substantially the... form” provided.

Id. The statute then offers sample forms in subsections (d), (e), and (f): (d) Base form: name, birthday, address, reference to perjury (e) Inmate form: name, birthday, inmate number, prison unit, reference to perjury (f) Public employee form: name, agency, reference to perjury Thus, two of the three sample forms speak of a birthday, whereas all of them require a name and a reference to being made under penalty of perjury.

The general use unsworn verification must include a jurat which substantially conforms to the following: 2 TEX. CIV. PRAC. & REM. CODE ANN. § 132.001(d). Given this form, one could reasonably conclude that the inclusion of the declarant’s birthday was fairly insignificant, with the key lying in the statement about being made under penalty of perjury. See *Baylor Scott & White v. Project Rose MSO, LLC*, 633 S.W.3d 263, 291 (Tex.

App.—Tyler 2021, pet. denied) (“Although the declaration jurat fails to contain [the declarant’s] address and date of birth, such an omission is not fatal.... Rather, the key to an unsworn declaration is that it must be signed under penalty of perjury.” (internal quotations omitted)); see also *Gillis v. Harris Cnty.*, 554 S.W.3d 188, 193 (Tex. App.—Houston [14th Dist.]

2018, no pet.). But that position might have come under a cloud after *Hays Street Bridge Restoration Group v. City of San Antonio*. There the Supreme Court faced an eleventh-hour effort by a respondent to establish mootness based on an unsworn declaration by a city employee. *Hays Street Bridge Restoration Grp. v. City of San Antonio*, 570 S.W.3d 697, 702 (Tex.

2019). The court rejected the city employee’s declaration as (A) conclusory and (B) lacking a birthday in the jurat. *Id.* at 702–03 & n.15. The court did not explain why a city employee needed to supply a birthday at all, given that subsection (f) of the statute does not require one. TEX. CIV. PRAC. & REM. CODE ANN. § 132.001(f).

In the wake of *Hays Street*, lower courts have gone different ways about birthdays.¹ By way of example, in 2021, our sister court in Tyler concluded that an unsworn declaration was sufficient despite the fact that its jurat did not include the declarant’s address or date of birth, but it was in writing and signed under penalty of perjury. See *Baylor Scott & White*, 633 S.W.3d at 291.

The Tyler court’s conclusion 1 See *Mock v. St. David’s Healthcare P’Ship, LP, LLP*, No. 03-22-00708-CV, 2025 WL 3114017, at *4 (Tex. App.—Austin Nov. 7, 2025, no pet.) (mem. op.) (concluding declaration failed to “substantially comply” with Texas Civil Practice and Remedies Code section 132.001(d) because declarant failed to include birthdate and address); but see *In re Cook Compression*, No. 04-20-00517-CV, 2020 WL 6928397, at *2–3 (Tex.

App.—San Antonio Nov. 25, 2020, orig. proceeding) (mem. op.) (concluding unsworn declaration that failed to include declarant’s date of birth, address, and county and state it was signed in nonetheless substantially complied with section 132.001(d), because “main requirements are that the declaration be in writing and subscribed by the person making the declaration as true under penalty of perjury”); *Baylor Scott & White v. Project Rose MSO, LLC*, 633 S.W.3d 263, 291 (Tex.

App.—Tyler 2021, pet. denied) (concluding “declaration state[d] that it [was] made under penalty of perjury, and... that its shortcomings [were] not fatal and that [the declaration was] admissible”).⁴ 4 arguably runs afoul of *Hays Street*, but *Hays Street* was not discussed by the parties, and the Texas Supreme Court denied a petition for review. II.

In this original proceeding, relators, Azhar Mahmood Chaudhary and Azhar Chaudhary Law Firm, PC, argued that the declaration jurat of Lloyd E. Kelley, counsel for real party in interest, Hamzah Ali, in support of Ali’s motion to reinstate, failed to substantially conform to the jurat exemplar identified in the statute.

Therefore, relators argued, the jurat was insufficient to support the motion to reinstate, which was then not verified as required by Texas Rule of Civil Procedure 165a(3). Absent a verified motion to reinstate, the trial court's July 25, 2024 order was signed after its plenary power had expired, and was therefore void.

The jurat of Kelley included in the motion to reinstate was as follows: This jurat did not include Kelley's date of birth. As discussed, the intermediate courts have been of two minds about the role of a declarant's birthday in an unsworn declaration.

In addition, a third possible position would be that a no-birthday declaration is procedurally effective as a 5 verification but substantively ineffective at supplying any competent evidence. See *Garza v. Garcia*, 137 S.W.3d 36, 38 (Tex. 2004) (motion for new trial without filing fee held procedurally effective to extend timetables, but not substantively effective to present complaint).

On that view, Kelley's declaration kept plenary power alive but did not supply any evidence that could be relied on. Given this specific mandamus record, and mindful of the specifics relating to error preservation regarding the form of this jurat, I agree in denying relief here. But in a proper case, it would be helpful to have further clarification from the Texas Supreme Court about what it means for an unsworn declaration jurat to "substantially" conform with the statute.

David Gunn Justice Panel consists of Chief Justice Adams and Justices Gunn and Johnson. Gunn, J., concurring. 6

PER CURIAM.

Opinion issued February 4, 2026 In The Court of Appeals For The First District of Texas NO. 01-25-00865-CV IN RE AZHAR MAHMOOD CHAUDHARY AND AZHAR CHAUDARY LAW FIRM, PC, Relators Original Proceeding on Petition for Writ of Mandamus MEMORANDUM OPINION Relators, Azhar Mahmood Chaudhary and Azhar Chaudhary Law Firm, PC, filed a petition for writ of mandamus challenging the trial court's July 25, 2024 order granting the "Verified Motion to Reinstate" of real party in interest, Hamzah Ali.¹ In their petition for writ of mandamus, relators argued that the trial court's plenary 1 The underlying case is *Hamzah Ali v. Azhar Mahmood Chaudhary and Azhar Chaudhary Law Firm, PC*, Cause No. 18-DCV-249370, in the 240th District Court of Fort Bend County, Texas, the Honorable Surendran Pattel presiding power had expired prior to the trial court signing the July 25, 2024 order, rendering the order void.

Relators therefore requested that the Court grant the petition and direct the trial court to vacate its July 25, 2024 order.² The Court requested a response to the petition for writ of mandamus, and real party in interest filed a response in opposition to the request for mandamus relief. Relators also filed a reply in support of their request for mandamus relief.

We conclude that relators have failed to establish they are entitled to mandamus relief, and the Court therefore denies relators' petition for writ of mandamus. We dismiss any pending motions as moot. 2 We note that relators' petition for writ of mandamus was filed on October 16, 2025, more than fourteen months after the trial court signed the order challenged in the mandamus petition.

However, relators' petition failed to explain, or even acknowledge, the fourteen-month delay in seeking relief. "Mandamus is an extraordinary remedy that is available only in limited circumstances and issues only in situations involving manifest and urgent necessity and not for grievances that may be addressed by other remedies." *In re Rogers*, No. 26-0010, --- S.W.3d ---, 2026 WL 91655, at *1 (Tex.

Jan. 13, 2026); see also *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992). While mandamus relief is not an equitable remedy, its issuance is largely controlled by equitable principles, with one such principle being "equity aids the diligent and not those who slumber on their rights." See *In re Cox Ventures, Inc.*, No. 01-12-00789-CV, 2013 WL 867433, at *1 (Tex.

App.—Houston [1st Dist.] Mar. 7, 2013, orig. proceeding) (mem. op.). Generally, "[d]elay alone provides ample ground to deny mandamus relief." *Id.* However, Texas courts have concluded that doctrines such as laches, waiver, or estoppel are not applicable when the order subject of the mandamus is void. See *In re Valliance Bank*, 422 S.W.3d 722, 728–29 (Tex. App.—Fort Worth 2012, orig. proceeding).

Where a trial court signs an order after its plenary power has expired, such order is void. See *In re Brookshire Grocery Co.*, 250 S.W.3d 66, 68 (Tex. 2008). 2 PER CURIAM Panel consists of Chief Justice Adams and Justices Gunn and Johnson. Gunn, J., concurring. 3