

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

In re E.R.F.

No. 04-25-00570-CV · No. 04-25-00570-CV · Decided January 28, 2026

SUMMARY

The Fourth Court of Appeals of San Antonio conditionally granted a petition for writ of mandamus challenging temporary orders requiring a child to be moved from his presumed and acknowledged father in Texas to his mother in Wisconsin. The court held that the father-child relationship had been established through a presumption of paternity and an effective acknowledgment of paternity, giving the father the same parental rights as the mother. The court directed the trial court to vacate its oral orders requiring the child’s return and lifted the stay.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Lori Massey Brissette; Irene Rios; Lori I. Valenzuela
JURISDICTION	Texas Court of Appeals, Fourth District, San Antonio
DECIDED	January 28, 2026
DOCKET	04-25-00570-CV
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original mandamus proceeding challenging temporary oral orders requiring relator to return the child to Mother in Wisconsin.
STANDARD OF REVIEW	Mandamus issues only for a clear abuse of discretion when there is no adequate remedy at law. A trial court abuses its discretion when its decision is arbitrary and unreasonable, constitutes a clear and prejudicial error of law, or reflects a failure to correctly analyze or apply the law. The court has no discretion to incorrectly determine or apply the law.
PRECEDENTIAL VALUE	published
PARTIES	Relator, the father of D.I.F. v. Respondent trial court and Mother, real party in interest

TOPICS

- writ of certiorari
- appellate procedure
- family law procedure
- parental rights
- child custody

PRACTICE AREAS

family law

appellate procedure

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether relator's father-child relationship and parental rights had been established through a statutory presumption of paternity and an effective acknowledgment of paternity.
2. Whether the trial court abused its discretion by ordering the child returned to Mother based on the erroneous assumption that relator had no established parental rights.
3. Whether relator had an adequate remedy by appeal from the temporary custody order.

HOLDINGS

1. Relator's father-child relationship had been conclusively established through both the statutory presumption of paternity and the facially valid acknowledgment of paternity; he therefore possessed the same parental rights as Mother.
2. The trial court abused its discretion by ordering D.I.F. returned to Mother based on the incorrect premise that relator lacked established parental rights.
3. Relator lacked an adequate remedy at law because temporary custody orders are interlocutory and not appealable, and the order threatened immediate disruption of the established parent-child relationship and the child's home, education, and medical care.

KEY QUOTATIONS

“Unless terminated, the father-child relationship applies for all purposes unless another law of this state establishes otherwise.” (at 5)

“The Texas Supreme Court “recognizes that a parent’s interest in maintaining custody of and raising his or her child is paramount.”” (at 7)

“This writ will issue only if the trial court fails to comply.” (at 8)

FACTUAL BACKGROUND

Relator continuously lived with D.I.F. from the child's birth in December 2019 through March 2025, represented himself as the child's father, and was listed as the father on the child's birth certificate and an acknowledgment of paternity signed by both parents. Relator provided the child's healthcare, insurance, education-related care, autism treatment, and speech-delay treatment, while the child remained in his care after Mother left Texas for Wisconsin. After hearing Mother's motion for temporary orders, the trial court ordered the child returned to Mother because it believed relator's parental rights had not been established.

PROCEDURAL HISTORY

Relator filed a petition to adjudicate parentage, which he later nonsuited. After a hearing on Mother's motion for temporary orders, the trial court set a final parentage trial and ordered the child returned to Mother within two

days based on the court's belief that relator's parental status remained unresolved. Relator sought mandamus relief and an emergency stay. The court of appeals granted a stay and conditionally granted mandamus.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The trial court was directed to vacate the September 10, 2025 oral orders requiring D.I.F. to be returned to Mother within two days. The writ would issue only if the trial court failed to comply.

CASES CITED

- Walker Sand, Inc. v. Baytown Asphalt Materials, Ltd., 95 S.W.3d 511, 514 (Tex. App.—Houston [1st Dist.] 2002, no pet.)
- Interest of J.J.R.S., 627 S.W.3d 211, 225 (Tex. 2021)
- Tex. Mut. Ins. Co. v. Laird, 706 S.W.3d 421, 423 (Tex. App.—Austin 2024, no pet.)
- In re Prudential Ins. Co. of Am., 148 S.W.3d 124, 135-37 (Tex. 2004) (orig. proceeding)
- Walker v. Packer, 827 S.W.2d 833, 839-42 (Tex. 1992) (orig. proceeding)
- In re Cerberus Capital Mgmt., L.P., 164 S.W.3d 379, 382 (Tex. 2005) (orig. proceeding)
- Holloway v. Fifth Court of Appeals, 767 S.W.2d 680, 684 (Tex. 1989)
- DeBoer v. DeBoer, 2012 S.D. 74, 21, 822 N.W.2d 730, 735
- In re T.R., 132 Cal. App. 4th 1202, 34 Cal. Rptr. 3d 215, 219 (2005)
- In re Rodriguez, 248 S.W.3d 444, 454 (Tex. App.—Dallas 2008, orig. proceeding)
- Dancy v. Daggett, 815 S.W.2d 548, 548 (Tex. 1991)
- In re Lemons, 47 S.W.3d 202, 203-04 (Tex. App.—Beaumont 2001, orig. proceeding)
- In re M.S., 115 S.W.3d 534, 547-48 (Tex. 2003)

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