

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

In re Kevin Henry

In re Kevin Henry · No. 01-25-00787-CV · Decided January 22, 2026

SUMMARY

The First Court of Appeals of Texas granted Kevin Henry’s petition for writ of habeas corpus arising from a criminal contempt judgment and order of attachment. The court held that the contempt judgment violated due process because Henry was not personally served with adequate notice of the alleged contemptuous conduct or of the possibility of criminal incarceration and punishment at the show-cause hearing. The court declared the judgment void and discharged Henry from its obligations.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                           |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals for the First District of Texas                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Terry Adams, Chief Justice; Gunn, Justice; Johnson, Justice                                                                                                                                                                                                                               |
| JURISDICTION          | Court of Appeals for the First District of Texas                                                                                                                                                                                                                                          |
| DECIDED               | January 22, 2026                                                                                                                                                                                                                                                                          |
| DOCKET                | 01-25-00787-CV                                                                                                                                                                                                                                                                            |
| DISPOSITION           | writ_granted                                                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Original habeas proceeding challenging a trial court's criminal contempt judgment and order of attachment.                                                                                                                                                                                |
| STANDARD OF REVIEW    | An original habeas proceeding collaterally attacks a contempt judgment; the appellate court determines whether the contempt order is void because the relator was denied due process or was unlawfully confined. The relator bears the burden of showing that the contempt order is void. |
| PRECEDENTIAL VALUE    | Published memorandum opinion                                                                                                                                                                                                                                                              |
| PARTIES               | Kevin Henry, Relator v. Derrick Dees, Real Party in Interest                                                                                                                                                                                                                              |

TOPICS

- contempt
- procedural due process
- appellate procedure
- constitutional law
- civil procedure

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Constitutional law
- Contempt
- Habeas corpus

## QUESTIONS PRESENTED

1. Whether the trial court's criminal contempt judgment was void because Henry was not personally served, before the show-cause hearing, with full and unambiguous notice of the alleged contemptuous conduct.
2. Whether the contempt judgment was void because Henry was not personally served with notice that criminal contempt, incarceration, and punishment could be imposed at the hearing.

## HOLDINGS

1. A person facing constructive criminal contempt must receive, before the contempt hearing, written notice by personal service that fully and unambiguously identifies the criminal contempt accusation and states that criminal incarceration or punishment may be imposed. Notice that merely states the person may be held 'in contempt' is insufficient.
2. Due process requires personal service, before the contempt hearing, of notice identifying the specific portions of the underlying order allegedly violated and the acts constituting contempt. Notice given only to the alleged contemnor's attorney is inadequate.

## KEY QUOTATIONS

*“Due process demands, at a minimum, that “full and unambiguous notice of an accusation of contempt be served on the alleged contemnor in a motion for contempt, show cause order, or equivalent legal process stating how, when, and by what means the party has been guilty of the alleged contempt.” (at 8)*

*“Stated differently, due process requires that the alleged contemnor receive written notice by personal service in advance of the contempt hearing, through a motion or show cause order, of the specific portions of the underlying order that he is accused of violating and that he could be subject to criminal contempt and sentenced to confinement during the hearing.” (at 9)*

*“Accordingly, for all of these reasons, we hold that the trial court’s Judgment of Criminal Contempt and Order of Attachment, signed September 24, 2025, in this case is void.” (at 15)*

## FACTUAL BACKGROUND

After losing the election for Brazoria County Sheriff, Kevin Henry made social-media statements about Derrick Dees that Dees considered defamatory. Dees obtained an ex parte temporary restraining order requiring Henry to remove two Facebook posts, and later sought to hold Henry in contempt for not immediately removing them. Henry removed the posts before the show-cause hearing, but the trial court nevertheless found him in criminal contempt, ordered 30 days' confinement, and stated that monetary fines would also be imposed.

## PROCEDURAL HISTORY

Derrick Dees sued Kevin Henry for defamation and obtained an ex parte temporary restraining order requiring Henry, among other things, to remove two social-media posts. Dees later moved for an order to show cause, but the motion was emailed to Henry's counsel and was not personally served on Henry. The trial court personally served Henry with a show-cause order that identified the hearing but did not state the contemptuous acts or warn that criminal incarceration and punishment could be imposed. After the hearing, the trial court found Henry in

criminal contempt and ordered 30 days' confinement, along with monetary fines. Henry sought habeas relief, and the court of appeals granted temporary relief before granting the petition and discharging him from the contempt judgment.

## DISPOSITION

writ\_granted

## CASES CITED

- Ex parte Rohleder, 424 S.W.2d 891, 892 (Tex. 1967) (orig. proceeding)
- Ex parte Gordon, 584 S.W.2d 686, 688 (Tex. 1979) (orig. proceeding)
- In re Morales, 2014 WL 2158170, at \*2-4 (Tex. App.—Houston [14th Dist.] May 22, 2014, orig. proceeding) (mem. op.)
- Ex parte Barlow, 899 S.W.2d 791, 794 (Tex. App.—Houston [14th Dist.] 1995, orig. proceeding)
- Ex parte Friedman, 808 S.W.2d 166, 168 (Tex. App.—El Paso 1991, orig. proceeding)
- Ex parte Chunn, 881 S.W.2d 912, 916 (Tex. App.—Houston [1st Dist.] 1994, orig. proceeding)
- In re Reece, 341 S.W.3d 360, 364-65 (Tex. 2011) (orig. proceeding)
- In re Wal-Mart Stores, Inc., 545 S.W.3d 626, 631-33 (Tex. App.—El Paso 2016, orig. proceeding)
- In re Smith, 981 S.W.2d 909, 911 (Tex. App.—Houston [1st Dist.] 1998, orig. proceeding)
- In re Moreno, 328 S.W.3d 915, 918-19 (Tex. App.—Eastland 2010, orig. proceeding)
- In re Blumenthal, 2021 WL 4848471, at \*4-5 (Tex. App.—Houston [1st Dist.] Oct. 19, 2021, orig. proceeding) (mem. op.)
- Johnson v. Clark, 2011 WL 5118775, at \*2 (Tex. App.—Amarillo Oct. 28, 2011, no pet.) (mem. op.)
- In re Williams, 2005 WL 3315285, at \*2-3 (Tex. App.—Eastland Dec. 8, 2005, orig. proceeding) (mem. op.)
- In re Houston, 92 S.W.3d 870, 877 (Tex. App.—Houston [14th Dist.] 2002, orig. proceeding)
- In re Radmacher, 2008 WL 2261278, at \*3 (Tex. App.—Houston [14th Dist.] May 23, 2008, orig. proceeding) (per curiam) (mem. op.)
- In re Gabrielova, 527 S.W.3d 290, 295 (Tex. App.—El Paso 2016, orig. proceeding)
- In re Acevedo, 2005 WL 1714310, at \*2 (Tex. App.—Corpus Christi July 22, 2005, orig. proceeding) (per curiam) (mem. op., not designated for publication)
- In re Powers, 2022 WL 16640631, at \*4 (Tex. App.—Houston [1st Dist.] Nov. 3, 2022, orig. proceeding) (mem. op., not designated for publication)
- Ex parte Pink, 645 S.W.2d 262, 264-65 (Tex. Crim. App. 1982)
- In re B.L.D., 113 S.W.3d 340, 349 (Tex. 2003)