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CASELAW UPDATE

(Cases from February 1–28, 2026)

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**DIVORCE:
PROCEDURE AND JURISDICTION**

Default Property Division Reversed for Insufficient Evidence.

1. *Tiney v. Tiney*, No. 14-25-00116-CV, 2026 WL 507652 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (02-24-2026).

Facts: Wife filed a petition for divorce and secured a default judgment after Husband did not answer or appear. Husband appealed.

Holding: Affirmed in Part; Reversed and Remanded in Part.

Opinion: Husband complained that he was not properly served and the evidence did not support the judgment. Wife did not file a responsive brief.

At trial, Wife was the only witness and provided only two pages of testimony. She stated the parties owned a home they intended to sell “eventually.” She expressed a desire for Husband to leave the home. Wife did not offer an inventory or any other exhibits. The final decree awarded each party his or her own monetary assets, and each party was awarded a car with its associated loan. Wife was awarded the residence and instructed to give Husband 50% of the residence’s fair market value, but the decree contained no provisions about a potential sale of the residence. The record contained no evidence of the value of any assets or debts. Wife presented no evidence to support her request to stay in the home without Husband, which would leave Husband having to find other accommodations until some unspecified time when Wife decided to sell the residence. Overall, the evidence was insufficient to support the judgment, and the property division was reversed and remanded for further proceedings.

With respect to Husband’s service complaints, the return complied with the Rules of Civil Procedure. Accordingly, the granting of divorce was affirmed.

**DIVORCE:
DISCOVERY**

Husband Failed to Establish Good Cause to Admit Late-Produced Expert Report; Offer-of-Proof Not Necessary Because Report Already in Record and Appellate Review Did Not Hinge on Evidentiary Concerns but on Timeliness of Disclosure.

2. *Caldwell v. Quaid*, No. 14-24-00071-CV, 2026 WL 308913 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (02-05-2026).

Facts: Shortly before the first trial setting in the parties’ divorce, Husband supplemented his tracing expert’s report, noting that the impressions and opinions would be provided upon completion of the report. Husband sought a continuance to allow his expert to complete the evaluation. The parties agreed to reset trial but did not make any agreement regarding the expert report. One week before the reset trial, Husband produced his report. The trial court sustained Wife’s objections regarding untimely production and excluded the report from evidence. At the trial’s conclusion, the court rendered a divorce on the grounds of Husband’s adultery and divided the community estate. Husband appealed.

Holding: Affirmed.

Opinion: Husband first challenged the exclusion of his tracing expert’s testimony, which Husband framed as a “death penalty” sanction. Contrary to Husband’s assertion, the exclusion was not a death penalty sanction. Under the rules concerning expert disclosures, noncompliance results in the automatic exclusion of evidence. Husband bore the burden to show good cause or lack of surprise for his untimely disclosure. While Husband produced the name of his expert early on in the litigation, he did not produce the expert’s “mental impressions and opinions and a brief summary of the basis for them” until a week before trial. Husband moved for a continuance to obtain more time for the expert’s tracing, but instead of obtaining a ruling on that motion, the parties offered a partial mediated settlement agreement that did not address the admissibility of Husband’s expert’s report. The trial court was duty-bound to exclude the evidence unless Husband met his burden to show good cause. Although Husband stated that Wife was not prejudiced, his argument was conclusory and did not satisfy his burden.

Husband next argued the trial court erred in failing to allow him to make an offer of proof for the expert’s testimony. The purpose of an offer of proof is to show the reviewing court the nature of the evidence specifically enough so that the reviewing court can determine its admissibility. Here, the ruling pertained to the belated timing of disclosure, not the admissibility of the testimony under the rules of evidence. Further, Husband had filed the report, so it was already part of the appellate record. Even presuming the trial court erred in disallowing the offer of proof, the decision did not prevent Husband from presenting his appellate issues.



**DIVORCE:
PROPERTY AGREEMENTS**

Husband Required to Return Gold Dowry to Wife Pursuant to Egyptian Premarital Agreement.

3. *Abdelwahed v. Hassanin*, No. 14-24-00880-CV, 2026 WL 275915 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (02-03-2026).

Facts: The parties married in Egypt and filed for divorce in Texas. The trial court found that certain gold was part of Husband's separate property and required Husband to surrender that gold to Wife pursuant to a premarital agreement. Husband appealed.

Holding: Affirmed.

Opinion: Construing Husband's brief liberally, it appeared that he argued he could not deliver the gold because it was not in his possession and did not exist. Testimony at trial showed that the parties signed a pre-marital agreement that listed items comprising Wife's dowry and had to be returned to Wife in the event of a divorce. Texas public policy requires the enforcement of pre-marital agreements. Husband bore the burden to rebut the presumption of the agreement's validity, and he did not do so. The trial court did not abuse its discretion in enforcing the agreement.

**DIVORCE:
PROPERTY DIVISION**

Father Established He Purchased New House During Divorce Proceeding with Inherited Funds, Making It Separate Property.

4. *Kist v. Kist*, No. 14-24-00826-CV, 2026 WL 307397 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (mem. op.) (02-05-2026).

Facts: Father and Mother had four children together. During the divorce proceedings, Father obtained a partial summary judgment regarding the characterization of a house he purchased during the divorce litigation. Father attached to his motion affidavits from himself and his brother, copies of disbursement checks from his mother's estate, and banking statements to trace the funds to purchase the house. The trial court granted partial summary judgment and found the house was Father's separate property. After a bench trial, the court imposed a geographic restriction to that county and the contiguous counties. Mother appealed.

Holding: Affirmed.

Opinion: Mother first challenged the geographic restriction. The family initially lived in Indiana but moved to Texas after Mother had a falling out with her family. In Indiana, Mother worked as an attorney, but in Texas, she stayed home and cared for the Children. Father had five different jobs over the 10 years the family lived in Texas. Mother claimed Father spent all their joint funds after she filed for divorce and threatened that he wanted to make her penniless and on the street. Mother additionally asserted Father was ineffective at coparenting. She asked the court to order that the marital residence be sold because Mother could not afford the mortgage. Additionally, she did not believe she could obtain a job that would allow her to afford housing and daycare in that area, and she did not have anyone to assist her in caring for the Children. She found a well-paying job in Indiana and would receive significant support from her family, including education at a private school owned by her mother. Her family offered to buy Mother a home in Indiana but would not assist with housing in Texas.

Father claimed that he could not find work in Indiana. He acknowledged the credit limit on Mother's credit card had been reduced once the divorce was initiated but denied requesting the limit reduction. Father disputed Mother's claims that he did not assist with the Children and keep up with their schooling. He purchased a new home near the marital residence and wanted the Children to remain in the area. Other witnesses disputed Mother's characterizations of Father as an "absentee parent."

While some evidence supported allowing Mother to move to Indiana with the Children, there was also evidence to support the trial court's judgment. The court did not abuse its discretion in finding it would be in the Children's best interest to remain in Texas.

Mother next challenged the partial summary judgment and argued the evidence was not competent summary-judgment evidence because the affidavits did not state the attached documents were "true and correct copies." The affidavits did, however, state that the facts within were based on "personal knowledge" and were "true and correct" and explicitly referenced each exhibit in tracking the movement of the funds. Summary-judgment evidence must be properly authenticated, which means that there must be evidence sufficient to support a finding that the item is what the proponent claims it is. Objections to authentication must be preserved through a timely objection and ruling on the objection. In the trial court, Mother raised hearsay objections but not authenticity objections. Moreover, the evidence supported the trial court's finding that Father purchased the house with inherited funds, making it his separate property.



**DIVORCE:
ENFORCEMENT OF PROPERTY DIVISION**

Clarification Order Appropriate when Decree’s Terms Could Not be Enforced by Contempt Because Date for Compliance Had Already Passed when Decree Was Signed.

5. *Nadar v. Nadar*, No. 05-24-00235-CV, 2026 WL 362649 (Tex. App.—Dallas 2026, no pet. h.) (mem. op.) (02-09-2026).

Facts: When Husband and Wife divorced, the final decree awarded Husband a house in Texas and awarded Wife a flat in Mumbai. The parties were ordered to execute all documents necessary to fulfill the division. Wife was ordered to vacate the Texas residence by a date about 6 weeks after pronouncement and 5 days before signing.

Six years later, Husband filed a motion to enforce the decree because Wife had still not vacated the Texas house. Husband asked the trial court to clarify the decree by issuing a new date for vacation in the near future. Wife asserted the original decree was not enforceable because the date by which she was required to vacate the residence was before the date the order was signed. However, she also argued that the decree as it existed was enforceable but was not enforceable by contempt and, therefore, could not be clarified. Additionally, she complained that Husband had not fulfilled his obligation to transfer the Mumbai flat to her and intended to file a bill of review regarding the property division.

The trial court agreed with Husband and signed a clarified order with a future vacation date. The trial court denied Wife’s motion for new trial, and she appealed.

Holding: Affirmed.

Opinion: Wife argued the trial court erred in signing a clarification order because the final decree was not ambiguous. Chapter 9 of the Family Code permits clarification orders if the final decree is not specific enough to be enforceable by contempt. Here, the decree ordered Wife to vacate the residence by date that had already passed. In setting a new date for compliance, the clarification order did not modify the property division.

Wife further complained the trial court erred in failing to consider evidence of Husband’s failure to deliver the Mumbai flat. Nothing in the clarification order altered Husband’s obligation to deliver to Wife the Mumbai flat. Further, contrary to Wife’s assertion, evidence supported the clarification judgment. The trial court reviewed and considered the final decree without objection. The terms of the decree were not disputed by the parties. Moreover, Wife did not raise any claims of unclean hands or laches at the clarification trial and, thus, waived those complaints in this appeal.

Finally, Wife argued the trial court erred in denying her motion for new trial based on the *Craddock* factors. The clarification order was not a default order. Wife’s attorney appeared on her behalf. Thus, the *Craddock* factors were inapplicable, and the trial court did not abuse its discretion in denying Wife’s motion for new trial.

**SAPCR:
PROCEDURE AND JURISDICTION**

Potential Due Process Violation in Refusal to Hear Post-Trial Evidence when Judgment Delayed by Almost a Year; However, Not Reversible Error Because the “New” Evidence Was Substantially Similar to What Was Presented at Trial.

6. *In re M.O.S.*, No. 04-24-00767-CV, 2026 WL 293342 (Tex. App.—San Antonio 2026, no pet. h.) (mem. op.) (02-04-2026).

Facts: A prior order appointed the parties joint managing conservators and gave Mother the exclusive right to designate the Child’s primary residence without a geographic restriction. Father filed a petition to enforce his standard possession order. A year later, Mother filed a counterpetition to modify and seeking a judgment for child support arrearages and to hold Father in contempt for nonpayment. Among the temporary orders rendered during the litigation, the trial court found credible evidence Mother was alienating the Child from Father, determined Mother’s access to the Child should be supervised, and appointed Father as a temporary sole managing conservator. Despite these orders, Mother withheld the Child from Father. After a final hearing, the court stated an intent to make the temporary orders final and to hold a status conference in three months. Nearly a year later, the court held a hearing on Father’s motion to enter. Mother objected and argued she should have been permitted to present evidence of events occurring in the last year. The trial court refused to hear additional evidence, and the final order matched the temporary orders and included a required status hearing. Mother appealed.

Holding: Affirmed.

Opinion: Mother argued the trial court erred in refusing to hear her additional evidence. She further argued that in doing so, the court denied her due process because any changes in that year between the final hearing and final order would be excluded from future modification proceedings as *res judicata*. Thus, she would never be able to present that evidence to the court. Mother’s argument first turned on *when* the trial court rendered its final order. In reviewing the record, the oral rendition after final trial did not constitute a rendition because the court demonstrated an intent that the litigation would be ongoing and was



not yet completed. The question next became whether Mother's due process rights were violated by the exclusion of post-trial/pre-judgment evidence.

The test to determine whether due-process rights have been violated balances three factors: (1) the party's private interest affected; (2) the risk that interest is deprived in error through the procedures used and the probable value, if any, of additional or alternative procedural safeguards; and (3) the government's interests, including the function involved and the fiscal and administrative costs that the additional or substitute procedural requirements would entail. The paramount concern in a child-custody modification suit is the best interest of the child. While it is understandable that the trial court would desire to keep things moving, particularly in a contentious case, the court's decision potentially deprived Mother of her due process rights.

However, reversal is only appropriate when a trial court's error probably caused the rendition of an improper judgment. Mother detailed to the trial court the kind of evidence she wished to present, which was similar to the evidence she presented at the final hearing. "Although a refusal to allow evidence of the ten-month period of time can be significant, on this record and mindful that the trial court had the opportunity to determine the credibility of the parents and the weight to be given the same kind of evidence and similar allegations in the prior trial, we cannot conclude the trial court's best interest findings would have necessarily turned on the purported evidence to be offered by Mother at the [entry] hearing."

Mandamus Sought Prematurely Because Trial Court Had Not Yet Ruled on Relator's Motion to Transfer.

7. *In re Broomfield*, No. 06-26-00004-CV, 2026 WL 308318 (Tex. App.—Texarkana 2026, orig. proceeding) (mem. op.) (02-05-2026).

Facts: The Managing Conservators ("MCs") had been appointed managing conservators of the Child, and Mother retained possessory conservatorship. The MCs violated that order by moving outside of the geographic restriction and were held in contempt. Then, the MCs filed an original petition to terminate Mother's parental rights and sought to adopt the Child. The MCs additionally filed a motion to transfer the suit to the county in which they now lived with the Child. They next sought mandamus relief to obtain an order from the appellate court directing the trial court to issue the mandatory transfer.

Holding: Writ of Mandamus Denied.

Opinion: The trial court had not yet ruled on the MCs request. To obtain mandamus relief compelling a ruling, there must first be an adequate showing that a request for a ruling has been properly and adequately presented to the trial court and that the trial court has declined to rule. Here, a controverting affidavit had been filing regarding the Child's residence. Mother was entitled to a hearing, which the trial court had set but which had not yet occurred.

Although Evidence Showed Aunt and Uncle Could Serve as Better Custodians for the Children, There Was No Evidence to Overcome the Parental Presumption, and Court Erred in Appointing Aunt and Uncle as Joint Managing Conservators with the Parents.

8. *In re Marriage of Chatman*, No. 12-25-00091-CV, 2026 WL 395247 (Tex. App.—Tyler 2026, no pet. h.) (mem. op.) (02-11-2026).

Facts: Mother filed for divorce after 12 years of marriage. The parties had two Children before filing, and Mother gave birth to Twins during the pendency of the suit. Father sought to terminate Mother's parental rights to all four Children on the ground of abandonment. Mother informed the court she had initiated a kinship adoption for the Twins so that her sister and brother-in-law (Aunt and Uncle) could adopt them. Mother had initially incorrectly believed Father was not the father of the Twins.

Aunt and Uncle intervened, seeking appointment as the Twins' sole managing conservators, as Aunt and Uncle had been the Twins' sole providers since their birth.

By the time of final trial, Mother had another child, but a DNA test established Father was not that child's father. Father testified that while Mother was pregnant with the Twins, he asked her if he was the father, and Mother said no and claimed to be serving as a surrogate for Aunt and Uncle. Agreed temporary orders had granted Father supervised possession of the Twins, but when he returned the Twins to Aunt and Uncle, the Twins had bruises on them. After that incident, Aunt and Uncle refused to agree to any further visitation for Father with the Twins. Father said the alleged photos of bruising (not admitted into evidence) looked more like a rash. Aunt accused Father of being illiterate, having only a ninth-grade education, and placing little weight on education. She did not believe Father could adequately care for the Twins. Father did not think he should have to pay child support for the Twins if they were not in his home.

The final decree of divorce dissolved Mother and Father's marriage, appointed Father and Mother as joint managing conservators of the older two Children, and gave Father the exclusive right to designate those Children's primary residence. The court appointed Father, Mother, Aunt, and Uncle joint managing conservators of the Twins and gave Aunt and Uncle the exclusive right to determine the Twins' primary residence. Father appealed pro se.

Holding: Affirmed in Part; Reversed and Remanded in Part.



Opinion: Father first challenged Aunt and Uncle’s standing, but the uncontroverted facts established Aunt and Uncle had care, control, and possession of the Twins sufficient to satisfy the prior version of Section 102.003(a)(9).

Father further challenged the appointment of the non-parents Aunt and Uncle as the Child’s managing conservators. Although Father had failed one drug test, a subsequent test was negative. There was no additional evidence of drug use by Father, and no evidence any alleged use impacted the Children. Although there were allegations of bruises on the Twins, there was no evidence linking the claimed injuries to Father. Mother testified she was not concerned Father would abuse the Twins. Although Aunt complained generally about Father’s lack of focus on education, she did not point out any specific behavior that gave rise to those concerns. While there was some evidence Aunt and Uncle might have been *better* custodians for the Twins than the parents, that evidence was insufficient to overcome the parental presumption. Evidentiary close calls should be decided in favor of a child’s natural parents. Thus, the trial court erred in appointing Aunt and Uncle as conservators.

Grandparents’ Close Relationship with Child and Questions Regarding Father’s Parental Fitness Did Not Overcome Presumption Mother Was a Fit Parent, and Trial Court Abused Its Discretion in Denying Mother’s Plea to the Jurisdiction.

9. *In re J.T.L.*, No. 03-25-01007-CV, 2026 WL 375670 (Tex. App.—Austin 2026, orig. proceeding) (mem. op.) (02-11-2026).

Facts: An agreed order appointed the parents joint managing conservators of their Child. Subsequently, the court signed a two-year family-violence protective order against Father for Mother’s protection and named Mother as the Child’s sole managing conservator. Father’s periods of possession were to be supervised by paternal Grandmother.

Before the expiration of the protective order, Father sought to modify the order to reappoint him as a joint managing conservator, and Mother filed a counterpetition. Grandmother filed a pro se petition in intervention without any supporting affidavit, and Mother filed a challenge to Grandmother’s standing. With the assistance of newly-hired counsel, Grandmother amended her petition and included affidavits complaining that Grandparents’ access to the Children had been denied, which could significantly impair the physical health or emotional development of the Child.

The trial court issued a temporary order giving Father supervised possession but did not reference Grandparents. At a hearing, Grandparents testified about Father’s failings, including seven stays in a psychiatric hospital in the prior year. These allegations were not included in the affidavits. Mother responded that the difficulties with Father did not give Grandparents standing because no one disputed Mother was a fit parent.

At the hearing’s conclusion, the trial court reviewed the affidavits, stated that they were sufficient to give Grandparents standing, and denied Mother’s plea to the jurisdiction and motion to deny relief. The written order found that Grandparents satisfied the requirements of Texas Family Code Section 153.432 (allowing grandparents to request court-ordered access to grandchild upon showing that denial of access will significantly impair child’s physical health or emotional well-being). Mother sought mandamus relief. Although a response was requested from Grandparents, none was filed.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: Texas Family Code Section 153.433 requires evidence that denial of a Grandparent’s possession and access to a child would *significantly impair* that child’s physical health or emotional development. The order granting this relief must include this explicit finding.

Here, Grandparents failed to establish significant impairment, and the order included no such finding. Affidavits from Grandparents summarized their close relationship with Child but failed to meet the strict requirement that denying Grandparents access to Child would significantly impair his physical health or emotional well-being. The trial court abused its discretion in denying Mother’s plea to the jurisdiction.

**SAPCR:
CONSERVATORSHIP**

Evidence of Ineffective Co-Parenting Supported Giving Father the Exclusive Right to Make Educational Decisions.

10. *In re B.R.H.*, No. 06-25-00069-CV, 2026 WL 376318 (Tex. App.—Texarkana 2026, no pet. h.) (mem. op.) (02-11-2026).

Facts: The trial court rendered a final order in a suit affecting the parent-child relationship. Mother appealed.

Holding: Affirmed.

Opinion: Mother contended the evidence was insufficient to support restricting her access to supervised and therapeutic-only visitation. The court found the Child was fearful of Mother and did not wish to be alone with Mother. During a visit with Mother, she admitted the Child to a mental-health facility with no notice to Father. The court found that this placement was unwarranted and harmful to the Child. Moreover, other evidence supported the judgment.

Mother additionally argued the evidence was insufficient to support giving Father the exclusive right to make educational decisions for the Child. She argued the record showed she was a strong advocate for the Child. However, the parents were



frequently unable to agree on the Child's educational needs. The trial court was within its discretion to determine whether to grant this right exclusively or otherwise. "When the evidence shows that the parties are having trouble effectively co-parenting, communicating, or reaching shared decisions, a trial court generally is justified in selecting one parent as the exclusive decisionmaker to avoid conflict if doing so is in the child's best interest"

Finally, Mother argued the trial court erred in increasing her child support payments and in requiring her to obtain health insurance for the Child. Contrary to Mother's assertion of no evidence, she testified she worked full time at \$18 per hour and indicated she would soon be providing health insurance for the Child. The court appropriately applied the Family Code guidelines to this testimony.

**SAPCR:
MODIFICATION**

Mother's Complaints About Poor Coparenting Could Not Establish "Significant Impairment" to Warrant Modifying the Geographic Restriction on the Child's Residence Two Months After an 8-Day Jury Trial.

11. *In re Haddad*, No. 04-25-00484-CV, 2026 WL 517517 (Tex. App.—San Antonio 2026, orig. proceeding) (mem. op.) (02-25-2026).

Facts: After an eight-day jury trial, Father was granted the exclusive right to designate the Child's primary residence anywhere in the continental U.S., allowing Father to move to Virginia with the Child. Two months later, Mother filed a motion to modify the exclusive right to designate the Child's primary residence but did not attach a supporting affidavit. She subsequently amended her motion to include an affidavit that complained of coparenting challenges and expressed "great" concerns about the Child's emotional wellbeing and safety but did not identify any specific facts about the Child's present environment that might have endangered his physical health or significantly impaired his emotional development.

Father filed a motion to deny relief because the affidavit was insufficient. The trial court found the affidavit was facially sufficient and conducted a hearing. Witnesses testified in support of Mother's requested relief; however, the witnesses did not offer evidence of the Child's present circumstances but of earlier circumstances. The trial court rendered temporary orders restricting the Child's residence to Bexar county and appointed an amicus attorney and parenting facilitator. Father sought mandamus relief. Mother and the trial court judge filed responses.

Holding: Writ of Mandamus Conditionally Granted.

Opinion: When a party seeks to modify the person with the exclusive right to designate a child's primary residence less than a year after the prior order's rendition, that party must attach an affidavit alleging, with supporting facts, that the child's present environment may endanger the child's physical health or significantly impair the child's emotional development. The purpose of this requirement is to promote stability in the conservatorship of children by preventing the re-litigation of custodial issues within a short period of time after the custody order is entered. The trial court is required to deny the relief sought and decline to hold a hearing on the proposed modification unless the court determines that, on the basis of the affidavit, adequate facts have been alleged to support the allegations regarding the child's physical health or emotional development.

Here, none of Mother's allegations in her affidavit were sufficient to meet the statutory requirement, so it was an abuse of discretion for the trial court to conduct a hearing.

"Our analysis does not end there." Appellate courts have consistently held that it is harmless error for a trial court to hold a hearing on a proposed modification when the required affidavit is deficient or absent, provided that adequate evidentiary support is admitted at the hearing. "We are left with a Catch-22 paradox—whether the trial court's decision to hold a hearing on the modification was harmless error may only be determined after consideration of the evidence adduced at that hearing."

Here, the evidence offered at the hearing did not include any direct knowledge of the Child's present circumstances or living environment. Mother's complaints about difficulties obtaining medical and educational records appeared to have been resolved and would not have been sufficient to meet the statutory requirement. Mother offered pictures showing bruising on the Child's legs but no evidence linking the bruises to any inappropriate action by Father or by anyone in Father's household. Thus, the evidence presented at the hearing did not cure the trial court's error in conducting the hearing.

**SAPCR:
REMOVAL OF CHILD / TERMINATION OF PARENTAL RIGHTS**

Father's Incarceration and Criminal History Supported Termination of Father's Parental Rights Even Though He Was Not Aware of Paternity Until Termination Proceeding.

12. *In re P.Y.*, ___ S.W.3d ___, No. 14-25-00696-CV, 2026 WL 363515 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (02-10-2026).

Facts: At the time of removal, Mother was in county jail, and Father was imprisoned. The Child lived with her maternal Grandmother, who had a long history of drug use and a history of CPS cases. A report suggested the Child was being sexually abused



by Grandmother's boyfriend. TDFPS placed the Child with maternal Aunt. At trial, there was evidence of the toxic environment in Grandmother's home and of Aunt's ability to care for the Child. The court terminated Mother and Father's parental rights on endangerment grounds and on the parents' inability to care for the Child due to incarceration. Father appealed.

Holding: Affirmed.

Majority Opinion: (J. Antú, J. McLaughlin)

Father first argued the trial court failed to make requisite findings regarding a continuing danger in the Child's home or reasonable efforts made by TDFPS to return the Child. However, Father waived this issue for appellate review by failing to apprise the trial court of this failure with a request for findings, motion for new trial, request for additional findings, or other objection. Moreover, the evidence supported the findings. A continuing danger prevented the return of the Child to Father because he was still imprisoned.

Father asserted the evidence was insufficient to support the finding he endangered the Child by leaving the Child in Grandmother's care. Although Father's criminal conduct dated back to before the Child's birth, he remained incarcerated and would still be in jail for months after the issuance of this appellate opinion. Father was not adjudicated as a parent until relatively recently; however, a father's conduct before the establishment of paternity may be considered as evidence of an endangering course of conduct. Father had been released on parole but was re-arrested when the Child was two-months old. Although Father testified that he would have intervened if he had known about the allegations against Grandmother's boyfriend, there was no evidence explaining how he could have meaningfully aided the Child while incarcerated.

Father additionally challenged the sufficiency of the evidence to support the best-interest finding. Reviewing the *Holley* factors, the evidence supported termination.

Dissenting Opinion: (J. Jewell)

Although there was evidence showing the Child had bonded with her Aunt, there was no evidence Father had any opportunity to bond with the Child. There was no evidence regarding the Child's desires.

The Child had no special needs and was not in daycare. There was evidence that the Child was being cared for by Aunt, but there was no evidence Father lacked the ability to provide for the Child's physical and emotional needs once released from prison. There was no evidence Father used drugs.

There was no evidence Father presented a physical or emotional danger to the Child. He was not the cause of the Child's removal from Mother, and there was no evidence he refused an opportunity to help the Child.

There was no evidence of Father's parental abilities and no evidence Father was aware of his paternity before this termination proceeding.

When the Child was two-months old, Father was arrested for intentionally evading arrest, but no details were admitted at trial. There was no evidence of any criminal conduct by Father after he learned he was the Child's father.

"According to the majority, Father 'cannot supply a safe, stable environment for [the Child].' This statement is based on Father's criminal history. Unlike the majority, I am hesitant to conclude that he has yet been afforded a reasonable opportunity to do so." (citation omitted).

TDFPS's Implementation of a Family Service Plan for the Parents Constituted "Reasonable Efforts to Return the Children to the Parent[s]" Under New Subsection (f).

13. *D.F. v. TDFPS*, ___ S.W.3d ___, No. 03-25-00738-CV, 2026 WL 482451 (Tex. App.—Austin 2026, no pet. h.) (02-20-2026).

Facts: After a jury trial, the parents' parental rights to their two Children were terminated on endangerment grounds. Mother's termination was also supported by findings related to drug use, and Father's was additionally supported by his incarceration. Both parents appealed.

Holding: Affirmed.

Opinion: Mother argued TDFPS did not present evidence of its reasonable efforts to return the Children to her before seeking termination of her parental rights. Additionally, she argued the order failed to identify any reasonable efforts with specificity. The newly revised statute provides:

- (f) In a suit for termination of the parent-child relationship filed by [TDFPS], the court may not order termination of the parent-child relationship under [one of the enumerated predicate grounds] unless the court finds by clear and convincing evidence and describes in writing with specificity in a separate section of the order that:
 - (1) [TDFPS] made reasonable efforts to return the child to the parent before commencement of a trial on the merits and despite those reasonable efforts, a continuing danger remains in the home that prevents the return of the child to the parent; ...
- (g) In a suit for termination of the parent-child relationship filed by [TDFPS] in which the department made reasonable efforts to return the child to the child's home but a continuing danger in the home prevented the child's return, the court shall include in a separate section of its order written findings describing with specificity the reasonable efforts the department made to return the child to the child's home.



While subsections (f) is new to the Family Code, the phrase “reasonable efforts to return the child to the parent is not; it appears in the “constructive abandonment” ground for termination. In caselaw reviewing the older provision, implementation of a family service plan has been considered a reasonable effort to return the child to the parent. Here, TDFPS made a family service plan and assisted Mother in her attempts to complete the plan. TDFPS presented sufficient evidence to support this finding.

With respect to the new subsection (g), upon abatement of the appeal to facilitate additional findings, the trial court signed supplemental findings that addressed TDFPS’s reasonable efforts to return the Children to Mother and Father and found a continuing danger in the home prevented the Children’s return. The findings were supported by the evidence.

Mother additionally challenged the finding that termination was in the Children’s best interest. Applying the *Holley* factors, the appellate court determined the trial court did not abuse its discretion.

In Father’s first issue, he argued the trial court erred by sua sponte entering an order, without notice or a hearing, that extended the automatic dismissal date. The order met the statutory requirements for extending the dismissal date. Father did not object to the lack of a hearing. Further, Father cited no authority to support his assertion that the extension must come on the motion of a party.

Additionally, contrary to Father’s assertions, the evidence supported the predicate grounds and best interest findings underlying the termination of his parental rights. Father also challenged the findings regarding TDFPS’s reasonable efforts to return the Children to the parents; however, for the same reasons as outlined above, the court overruled this issue in Father’s appeal.

FAMILY VIOLENCE / PROTECTIVE ORDERS

Boyfriend Failed to Show Trial Judge’s Prior Role at DA’s Office Prohibited Him from Presiding over Trial; Boyfriend Had Notice of Relief Sought and Date of Final Hearing, so Default Protective Order Affirmed.

14. *Arizola v. Rodriguez*, No. 02-25-00172-CV, 2026 WL 2006077 (Tex. App.—Fort Worth 2026, no pet. h.) (mem. op.) (02-12-2026).

Facts: After Boyfriend was arrested for biting Girlfriend’s face and pulling a gun on her, she sought a protective order. The court initially rendered a temporary ex parte protective order and set a final hearing. Boyfriend’s newly-hired attorney moved for a continuance based on a conflict. The state did not oppose the continuance. The temporary protective order was extended, and a notice of a new hearing date was sent to Boyfriend’s attorney. However, neither Boyfriend, nor his attorney, appeared at the final hearing, and the court signed a final default protective order. Boyfriend filed a motion for new trial, alleging his lawyer overlooked the reset final hearing and that his failure to appear was not the result of conscious indifference. Additionally, Boyfriend argued the order exceeded the relief pleaded for. The motion for new trial was overruled by operation of law, and Boyfriend appealed.

Holding: Affirmed.

Opinion: Boyfriend claimed the trial judge was disqualified from serving as judge over the case because the trial judge had previously worked in the district attorney’s office. Nothing in the record indicated that the judge was at the DA’s office when Girlfriend applied for the protective order or that the judge had any involvement with the application. Boyfriend attached newspaper articles to his appeal that purportedly supported his timeline, and he asked the appellate court to take judicial notice of the articles. While judicial notice is within the power of the appellate court, it declined to take that action here. Quoting the Amarillo appellate court, “[a]lthough we may judicially know that the Fort Worth Star Telegram is published within the territorial limits of the trial court, with all due deference, a newspaper report does not rise to the level of a source ‘whose accuracy cannot be reasonably questioned.’” Further, the articles did not discuss the judge’s duties during the relevant period or describe the judge’s role at the time.

Boyfriend further argued the order exceeded the relief requested, depriving Boyfriend of due process. Boyfriend was primarily concerned about the inclusion of the parties’ daughter as a protected person. The relevant statute allows the court to render an order to protect the applicant and the applicant’s family or household. Girlfriend’s application sought that relief without naming other individuals. The temporary order extended to Girlfriend’s family and household without naming other individuals. The final order identified the parties’ daughter and Girlfriend’s new boyfriend as protected persons. Boyfriend was on notice that this relief could be granted, and the evidence supported the judgment.

Finally, Boyfriend argued his attorney did not receive “constitutionally adequate notice” of the reset final hearing. In the motion for new trial, Boyfriend’s attorney acknowledged receiving notice of the hearing reset, but she did not see the date in the notice until after the date had passed. Her failure to take a “closer look” during the 11-day period between the receipt of notice and the hearing was not the equivalent of failure to receive constitutional adequate notice.

Respondent Could Not Complain of Lack of Notice of Reset Hearing After First Judge’s Voluntary Recusal Because Respondent Failed to Appear at First-Set Final Hearing.

15. *Tatum v. Noble*, ___ S.W.3d ___, No. 14-25-00409-CV, 2026 WL 502165 (Tex. App.—Houston [14th Dist.] 2026, no pet. h.) (02-24-2026).



Facts: The parties appeared pro se in both the trial and appellate courts. Applicant applied for a protective order, and First Judge signed a temporary ex parte protective order. Respondent filed a judicial complaint against First Judge but did not move to recuse her. Respondent failed to appear at the subsequent final hearing. However, instead of signing a default final protective order, First Judge voluntarily recused herself. The case was transferred to Second Judge's court, where another final hearing was conducted. Again, Respondent failed to appear. Applicant presented evidence in support of her requested relief, and Second Judge signed a default final protective order.

Respondent moved to stay enforcement and to set aside the protective order. She alleged she was denied the opportunity to appear and defend herself because she had no notice of the hearing. She offered no evidence in support of either motion, which were both overruled by operation of law. Respondent appealed.

Holding: Affirmed.

Opinion: Among other issues, Respondent argued she did not appear because she was not served with notice of the hearing. The record established that Respondent was properly served with the application for protective order and citation instructing her that a failure to respond or appear could result in a default judgment against her. Respondent received notice of the hearing before the First Judge, but Respondent failed to appear. The case's transfer after Respondent's non-appearance did not change the fact that she failed to appear at the first final hearing. If a county has more than one district court, then any of the county's district-court judges may hear and decide a matter pending in any of the county's other district courts, regardless of whether the case is transferred. "Inasmuch as the hearing began when the case was called in one court but concluded in another court, the [second hearing was] effectively—and permissibly—a continuation of the [first hearing]." Respondent's failure to offer evidence was due to her failure to appear at the first set hearing.

