

Conditionally Granted and Opinion Filed October 29, 2025



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-25-00019-CV

IN RE VANG PHONG LE, Relator

Original Proceeding from the County Court at Law No. 1
Rockwall County, Texas
Trial Court Cause No. 1-23-1664

MEMORANDUM OPINION ON REHEARING

Before Justices Smith, Lewis, and Barbare
Opinion by Justice Barbare

Relator Vang Phong Le (Le) petitioned the Court for a writ of mandamus, which we originally denied because he failed to comply with the applicable rules of appellate procedure. Le filed a motion for rehearing wherein he represented that he corrected the deficiencies and attached a corrected petition. We agree that Le has cured the deficiencies.

Through his corrected petition, Le seeks withdrawal of the trial court's September 27, 2024 Order for Clarification and Enforcement by Contempt and Suspension of Commitment (Clarification Order), in which the trial judge granted real party in interest Trang Thi Ngoc Truong's (Truong) Petition for Clarification and Enforcement of Property Division (Petition for Clarification). Le argues that the

trial judge abused his discretion by entering the Clarification Order and that he has no adequate remedy by appeal. We agree. Accordingly, we grant the motion for rehearing, withdraw our prior opinion, vacate our prior order, and issue this new opinion and order conditionally granting the petition for writ of mandamus.

Background

Le and Truong divorced in January 2024. The trial court signed a final divorce decree awarding Le the marital home and ordering him to pay Truong “\$190,000 ninety days after this Agreed Decree of Divorce is entered.” Truong transferred her interest in the home to Le; however, Le did not pay the \$190,000.

Truong filed a Petition for Clarification arguing that Le violated the divorce decree by failing to pay \$190,000 within ninety days. She asked the trial court to order Le to pay the amount “at a date and place certain.” Truong requested that if any part of the divorce decree was “not specific enough to be enforced by contempt, the Court enter a clarifying order restating the terms of the order, decree, or judgment in a manner specific enough to allow enforcement by contempt and specifying a reasonable time within which compliance will be required.”

During the enforcement hearing, Truong testified that she transferred her interest in the marital property to Le but she had not received payment from him. Truong confirmed that, at the time of the hearing, she was living in Virginia and had not provided Le written notice of her change of address per the “Required Notices

to the Parties” outlined in the divorce decree. She acknowledged that the divorce decree did not tell Le where to send the payment.

After Truong’s testimony, her attorney asked the trial judge to enforce or, in the alternative, “clarify - - this order and allow Mr. Le enough time to comply for us to enforce.” Le maintained that his failure to pay Truong was due to “his inability to find her,” and the divorce decree needed to be clarified to include a location for payment. At the end of her hearing, the trial judge stated:

Understood. So what I will suggest is this: On the proposed order, if you could put the address and location that you want payment to be made, I may have to change the order up to satisfy what I think is recoverable in this case. But let’s make sure we clarify the location address, and I will specify a time if I believe it needs to be paid by a certain date to give him time to get the money together.

On September 27, 2024, the trial judge signed the Clarification Order and found that “certain terms of the decree are not specific enough to be enforced by contempt and should be clarified.” It ordered that the divorce decree be clarified as follows:

Vang Phong Le shall pay Trang Thi Ngoc Truong \$190,000.00, by cash, cashier’s check, money order, or electronic transfer on or before 5:00 p.m. on December 20, 2024, at Law Office of Andy Nguyen, PLLC, 2888 Medlin Drive[,] Arlington, Texas 76015. . . .

IT IS FURTHER ORDERED that Vang Phong Le shall comply with the terms of this clarifying order by December 20, 2024, after which the terms of this clarifying order may be enforced by contempt and the Court may order the sale of the residence known as 331 Carolina Trace, Fate, Texas 75189.

The trial judge then found that Le was “guilty” and “failed to comply with” the provision ordering him to pay “\$190,000 within ninety days after the Agreed Final Decree of Divorce was entered.” The trial judge further found Le in contempt for violating the same payment term and ordered that he “shall be confined in the county jail . . . for a period not to exceed eighteen months” or until he complied with the payment terms. The court also ordered him to pay \$3,000 in attorney’s fees.

The trial judge suspended commitment on the condition that Le pay the money owed. In a single issue, Le argues the portion of the Clarification Order finding him in contempt is void.

Mandamus Standard

Contempt orders are not appealable and are reviewable only by a petition for writ of mandamus or habeas corpus. *In re Janson*, 614 S.W.3d 724, 727 (Tex. 2020) (orig. proceeding) (per curiam); *In re Rigg*, No. 05-21-00342-CV, 2022 WL 908951, at *4 (Tex. App.—Dallas Mar. 29, 2022, orig. proceeding) (mem. op.). If, as here, the contemnor is not jailed, the proper vehicle to challenge the contempt order is a petition for writ of mandamus. *Janson*, 614 S.W.3d at 727; *see also In re Goldrup*, No. 08-24-00311-CV, 2025 WL 1129018, at *4 (Tex. App.—El Paso Apr. 16, 2025, orig. proceeding) (mem. op.) (“When commitment is assessed but suspended, an order is reviewable by petition for writ of mandamus rather than habeas corpus.”).

To obtain mandamus relief, the party must show the trial court abused its discretion, and there is no adequate remedy by appeal. *Rigg*, 2022 WL 908951, at *4.

However, because contempt orders are not subject to direct appeal, there is no adequate remedy by appeal, and the relator need only to establish a clear abuse of discretion. *Id.* A trial court abuses its discretion when it acts arbitrarily, unreasonably, or without reference to any guiding rules or principles. *In re Kay*, 715 S.W.3d 747, 750 (Tex. 2025) (orig. proceeding).

In an original proceeding challenging a contempt order, the relator has the burden to show that the order is void. *In re Lowry*, 511 S.W.3d 256, 256 (Tex. App.—Dallas 2015, orig. proceeding) (mem. op.). As applicable here, a contempt order is void if it was rendered without adequate notice, *Ex parte Carney*, S.W.2d 345, 346–47 (Tex. 1995) (orig. proceeding) (per curiam), or if the underlying order being enforced does not set out the terms of compliance in clear and unambiguous terms. *In re Ruff*, No. 05-24-01007-CV, 2025 WL 444135, at *3 (Tex. App.—Dallas Feb. 10, 2025, orig. proceeding) (mem. op.).

Contempt

Contempt is defined as willful “disobedience to or disrespect of a court by acting in opposition to its authority.” *In re Luther*, 620 S.W.3d 715, 721 (Tex. 2021) (orig. proceeding) (per curiam). Courts have broad and inherent power to punish contemptuous conduct. *In re Reece*, 341 S.W.3d 360, 364 (Tex. 2011) (orig. proceeding). Despite the breadth of a court’s contempt power, the Texas Supreme Court has warned “it is a tool that should be exercised with caution.” *Id.*

An alleged contemnor must have knowledge or notice of the underlying order that he is accused of violating, and that order must be enforceable by contempt. *Goldrup*, 2025 WL 1129018, at *5. A party cannot be held in contempt for violating a court order of which he had no knowledge, as willful disobedience is a necessary element of contempt. *Id.*

To be enforceable by contempt, an order must set out the terms for compliance in clear and unambiguous terms. *Ex parte Brister*, 801 S.W.2d 833, 834 (Tex. 1990) (orig. proceeding); *In re Martin*, 523 S.W.3d 165, 169–70 (Tex. App.—Dallas 2017, orig. proceeding). “The order must unequivocally command the duty or obligation that the person charged with contempt is accused of violating.” *Rigg*, 2022 WL 908951, at *4 (citing *Ex parte Padron*, 565 S.W.2d 921, 921 (Tex. 1978) (orig. proceeding)). It must be sufficiently specific so that the person charged with obeying the order will readily know exactly what duties and obligations the order imposes. *Id.* (citing *Ex parte Chambers*, 898 S.W.2d 257, 259–60 (Tex. 1995) (orig. proceeding)). “If the court’s order requires inferences or conclusions about whether particular conduct is encompassed by the order and concerning which reasonable persons might differ, the order is insufficient to support a judgment of contempt.” *Id.*

Additionally, section 9.008(d) of the family code provides that the court “shall provide a reasonable time for compliance before enforcing a clarifying order by contempt or in another manner.” TEX. FAM. CODE ANN. § 9.008(d). A court may not

give a retroactive effect to a clarifying order in such a way as to subject a party immediately to contempt. *See id.* § 9.008(c) (“The court may not give retroactive effect to a clarifying order.”); *see also Ex parte Price*, 741 S.W.2d 366, 367–68 (Tex. 1987) (explaining that a person cannot be held in contempt of an order that had not yet been entered at the time the contemptuous conduct occurred); *Zeolla v. Zeolla*, 15 S.W.3d 239, 242 (Tex. App.—Houston [14th Dist.] 2000, pet. denied) (acknowledging clarification order did not violate section 9.008(c) because it did not impose new legal consequences to prior events). “The court must provide a reasonable time for compliance with the clarifying order before enforcing it.” *Hollingsworth v. Hollingsworth*, 274 S.W.3d 811, 818 (Tex. App.—Dallas 2008, no pet.).

Here, Truong did not expressly seek an order of contempt in her Petition for Clarification or argue for such relief during the enforcement hearing. The trial judge did not indicate during the hearing that he was considering such relief or thought it was necessary. Rather, the trial judge found “that certain terms of the divorce decree are not specific enough to be enforced by contempt and should be clarified.” He then clarified the order to include the specific date, time, and address for Le to comply with the payment obligation. Despite correctly finding that the provision lacked sufficient clarity to be enforced by contempt, the trial judge nevertheless found Le in contempt of that same provision without providing adequate notice or a reasonable time for him to comply with the clarified order. *See id.* Because Le did not have

notice or a reasonable time to comply with the Clarification Order, the trial court’s finding that he acted with “willful disobedience to or disrespect of a court by acting in opposition to its authority” was arbitrary, unreasonable, and without reference to any guiding rules or principles. *See Kay*, 715 S.W.3d at 750; *Luther*, 620 S.W.3d at 721. Accordingly, the portion of the Clarification Order finding Le in contempt is void. *Ruff*, 2025 WL 444135, at *4 (concluding contempt order is void when underlying orders were not specific enough to be enforced by contempt).

Conclusion

We conclude that the portion of the trial judge’s September 27, 2024 Order for Clarification and Enforcement by Contempt and Suspension of Commitment finding Le in contempt is void. Accordingly, we conditionally grant Le’s corrected petition for writ of mandamus and direct the trial judge to immediately vacate the Order for Clarification and Enforcement by Contempt and Suspension of Commitment and enter a new clarification order in accordance with this opinion. We further direct the trial judge to file with this Court, within twenty days of the date of this opinion, a certified copy of his order issued in compliance with this Court’s opinion and order. A writ will issue only if the trial judge fails to comply.

/Cynthia Barbare/
CYNTHIA BARBARE
JUSTICE