

Denied and Opinion Filed December 23, 2025



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-24-01478-CV

IN RE CEDAR HILL HOTEL, LLC, Relator

Original Proceeding from the 134th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-24-10339

OPINION ON REHEARING

Before Justices Goldstein, Kennedy, and Jackson
Opinion by Justice Goldstein

In this original proceeding, relator challenges an October 23, 2024 order granting real party in interest's motion to transfer venue whereby the trial court transferred the underlying suit to Titus County, Texas. On January 31, 2025, this Court issued its opinion and order dismissing this original proceeding, concluding this original proceeding was moot because the trial court had lost plenary jurisdiction to vacate or modify the venue-transfer order.

Relator moved for rehearing, arguing that its petition for writ of mandamus was timely and thus this Court has jurisdiction to hear it under Section 15.0642 of the Texas Civil Practice and Remedies Code. On this record, we conclude that Section 15.0642 does not apply to this case and thus deny relator's motion.

BACKGROUND

In this contract dispute, relator Cedar Hill Hotel, LLC sued real party in interest Guaranty Bank & Trust, N.A. Relator alleges that in 2019, it entered into a ground lease with the City of Cedar Hill in which relator agreed to construct and operate a select service convention center hotel. Relator alleges that it had obtained a construction loan from real party for approximately \$14,429,130, secured by a first lien covering the leasehold estate in the ground lease and that relator and real party executed a construction loan agreement, a deed of trust, and promissory note (collectively, the Agreement). Relator alleges that in 2020, real party sent a letter to relator claiming an event of default had occurred under the Agreement and that real party's obligations under the Agreement were no longer in effect. Real party made no advances to relator; as a result, the City terminated the ground lease with relator. Relator sued real party in Dallas County, Texas, asserting claims for breach of contract and common-law indemnity. Relator alleged venue was proper in Dallas County pursuant to Section 15.002 of the Texas Civil Practice and Remedies Code.

Real party filed a motion to transfer venue, asking the trial court to transfer the action to Titus County, Texas, under the mandatory-venue provision found in Section 15.020 of the Texas Civil Practice and Remedies Code relating to "major transactions." It argued that the construction loan agreement and promissory note contained venue-selection clauses that required the suit to be brought in Titus County

and that because the parties' agreement contemplated a "major transaction" of more than \$14 million, venue was mandatory in Titus County under Section 15.020.

Relator then amended its petition to allege that venue was proper in Dallas County, Texas, pursuant to Section 15.020 insofar as the case concerned major transaction by and between relator and the City (i.e., the ground lease). Relator alleged that in conjunction with underwriting the loan, real party took an assignment of the ground lease and that the ground lease contains a mandatory forum-selection clause requiring actions against a party to be brought in Dallas County. Relator alleged that real party's alleged actions caused relator to breach its agreement with the City and thus relator's action arises from a major transaction. Relator also added a claim for declaratory judgment.

On the same day, relator filed a response to real party's venue-transfer motion. Relator argued that under Section 15.020, both Titus County and Dallas County are mandatory venues for actions involving the project. Thus, it argued, relator as plaintiff should be given the choice of which venue the case should proceed in. Relator argued that Dallas County is a mandatory and proper venue in which the proceeding should take place.

Real party filed a reply, noting that relator did not dispute that the Agreement constituted a major transaction pursuant to Section 15.020. It argued that relator's agreements with the City do not mandate venue because the City is not a party to the suit and because the agreement between relator and real party forms the basis of this

suit. Real party argued that it is not subject to the venue provision that the City negotiated with relator and that relator cited no case wherein a court ignored an agreed-upon mandatory contractual venue provision between two parties in favor of a venue provision contained in a different agreement between different parties.

On October 23, 2024, the trial court signed an order granting real party's venue-transfer motion, ordering the matter to be transferred to Titus County and for the District Clerk of Dallas County to effectuate the transfer.

On December 18, 2024, relator filed a petition for writ of mandamus, asking this Court to compel the trial court to vacate the October 23, 2024 order and to sign an order denying the motion so that the suit will continue in Dallas County.

DISCUSSION

A. Original Proceeding

This original proceeding is moot. "After a trial court grants a motion to transfer venue, it retains plenary jurisdiction over the case for thirty days." *In re Sw. Bell Tel. Co.*, 35 S.W.3d 602, 605 (Tex. 2000) (orig. proceeding) (per curiam). "Even if the venue transfer is interlocutory for the parties, the order is final as far as the transferring court is concerned." *Id.* Thus, "the trial court [has] thirty days after it sign[s] the transfer order to vacate or modify that order." *Id.* An order that sets aside an order granting a motion to transfer venue but is issued after the expiration of the trial court's plenary power is void. *See id.* (holding trial court lacked plenary power to set aside an order granting a venue-transfer motion a year after granting the motion

and thus well after the trial court’s plenary power had expired); *see also In re Darling Homes*, No. 05-05-00497-CV, 2005 WL 1390378, at *1–2 (Tex. App.—Dallas June 4, 2005, orig. proceeding [mand. denied]) (mem. op.) (holding September 27, 2004 order vacating an August 3, 2004 order granting a venue-transfer motion was void because it was issued after the trial court had lost plenary jurisdiction to vacate or modify the venue-transfer order).

Here, the trial court granted real party’s venue-transfer motion on October 23, 2024. Relator did not seek mandamus relief until fifty-six days later on December 18, 2024—more than three weeks after the trial court’s plenary power had expired. Thus, by the time relator sought mandamus relief, the trial court had already lost the power to issue the requested ruling. Thus, this original proceeding is moot. *See In re NMSR Rentals Tex., LLC*, No. 05-24-00893-CV, 2024 WL 4689026, at *2 (Tex. App.—Dallas Nov. 6, 2024, orig. proceeding) (mem. op.) (dismissing original proceeding as moot when trial court lacked plenary power to provide relator the requested relief). This Court lacks jurisdiction over moot proceedings. *Id.* Accordingly, we dismissed this original proceeding for want of jurisdiction when we issued our original opinion and order.

B. Motion for Rehearing

Relator timely moved for rehearing, arguing that its petition for writ of mandamus was timely under Section 15.0642 of the Texas Civil Practice and Remedies Code. Section 15.0642 states:

A party may apply for a writ of mandamus with an appellate court to enforce the mandatory venue provisions of this chapter. An application for the writ of mandamus must be filed before the later of:

- (1) the 90th day before the date the trial starts; or
- (2) the 10th day after the date the party receives notice of the trial setting.

TEX. CIV. PRAC. & REM. CODE ANN. § 15.0642. Relator argues that it seeks to enforce the mandatory-venue provisions found in Section 15.020(b) governing major transactions, that trial in the underlying suit was set for July 21, 2025, and that it received notice of the trial setting on October 14, 2024. Thus, it argues, the later date by which it was required to submit its petition for writ of mandamus to enforce the mandatory-venue provision was April 22, 2025, and it filed its mandamus petition within that deadline on December 18, 2024.¹ Relator further argues that this more-specific statutory rule governing the filing of petition for writ of mandamus should control over the more general rule of plenary power.

In this case of first impression, we rely on the rules of statutory construction and for the reasons set forth below, deny the motion for rehearing.

First, relator's argument assumes that Section 15.0642 applies to a party seeking to challenge a trial court's order granting a venue-transfer motion and

¹ The date of April 22, 2025, is based on the July 21, 2025 trial setting. Relator does not contend that its petition for writ of mandamus was timely under Section 15.0642(2). Relator contends that it received notice of the trial date on October 14, 2024. Relator did not file its mandamus petition until December 18, 2024.

transferring an entire action to another county. This assumption is flawed based upon the statutory rules of construction.

When construing a statute, our primary objective is to ascertain and give effect to the Legislature's intent. TEX. GOV'T CODE ANN. § 312.005; *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011). To discern that intent, we begin with the statute's words. *TGS-NOPEC Geophysical Co.*, 340 S.W.3d at 439. We presume that the Legislature chose a statute's language with care, including each word chosen for a purpose, while purposefully omitting words not chosen. *Id.* If a statute is unambiguous, we adopt the interpretation supported by its plain language unless such an interpretation would lead to absurd results. *Id.* We must not interpret a statute in a manner that renders any part of the statute meaningless or superfluous. *Crosstex Energy Servs., L.P. v. Pro Plus, Inc.*, 430 S.W.3d 384, 390 (Tex. 2014). We give words their "ordinary meaning" when they are not defined. TEX. GOV'T CODE ANN. § 312.002(a); *LCAR Frisco, LLC v. GCRE/TX Frisco Master, LLC*, No. 05-22-00149-CV, 2023 WL 4199260, at *3 (Tex. App.—Dallas June 26, 2023, no pet.) (mem. op.).

With regard to special provisions prevailing over general, the Code Construction Act provides:

(a) If a general provision conflicts with a special or local provision, the provisions shall be construed, if possible, so that effect is given to both.

(b) If the conflict between the general provision and the special or local provision is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the

later enactment and the manifest intent is that the general provision prevail.

TEX. GOV'T CODE ANN. § 311.026.

The threshold requirement for mandamus under Section 15.0642 is that the original proceeding must be brought to enforce² the mandatory-venue provisions of Chapter 15. The parties' disagreement concerns the question of which agreement's mandatory-venue provision controls. Relator is not seeking mandamus relief to enforce a mandatory-venue provision; rather, relator is challenging the trial court's ruling that mandatory venue lies in Titus County and transferred venue.

In any event, based on a plain-language reading of Section 15.0642, we conclude that the statute does not apply to a party seeking mandamus relief from an order granting a venue-transfer motion and transferring an entire action to another county. Under Section 15.0642, an application for writ of mandamus must be filed before the later of (1) "the 90th date before the date the trial starts" or (2) "the 10th day after the date the party receives notice of the trial setting." TEX. CIV. PRAC. & REM. CODE ANN. § 15.0642. In prong one, the Legislature chose to use the phrase "the date the trial *starts*." *Id.* (emphasis added). The word "start" means "to come

² In continuing with our code construction analysis, we will assume without deciding that the underlying dispute of competing mandatory venue provisions satisfies the predicate of "seeking to enforce"—i.e., to "carry out effectively" or "compel obedience to"—notwithstanding the trial court's decision and transfer order. *See Enforce*, WEBSTER'S COLLEGIATE DICTIONARY (11th ed. 2003); *Enforce*, BLACK'S LAW DICTIONARY (12th ed. 2024).

into being, activity, or operation.” *Start*, WEBSTER’S COLLEGIATE DICTIONARY (11th ed. 2003).

Relator assumes that it can use the date the Dallas County court had set for trial before it ruled on the venue-transfer motion to establish relator’s deadline to seek mandamus relief. But the Legislature chose to use the phrase “the date the trial starts” in prong one rather than the phrase “trial setting,” which it used on prong two. Section 15.0642(1) is meaningful only if there is still going to be a trial before the respondent judge against whom the relator seeks a writ of mandamus.³ But once a trial court grants a venue-transfer motion, the action is transferred to the transferee court and is no longer pending before the respondent judge. Even if, as in this case, the trial court had set a trial date before it ruled on a venue-transfer motion, the trial date becomes a nullity upon the trial court’s transferring the entire action to another county. A trial will never “start,” will never come into being, in the court transferring an entire action to another county, on this record rendering the case closed in Dallas County once transfer is effectuated.

Similarly, the deadline set by the second prong of Section 15.0642 is “the 10th day after the date the party receives *notice of the trial setting*.” TEX. CIV. PRAC. & REM. CODE ANN. § 15.0642(2) (emphasis added). Once a trial court transfers an entire action to another county, the transferring court will not thereafter set a trial

³ For example, on this record, the statute would have been meaningful if the trial court had denied the motion and refused to transfer to Titus County.

date in the case. Thus, the party seeking mandamus review of the venue-transfer ruling will not receive notice of a trial setting from that court once the unchallenged transfer is effectuated and the cause closed.⁴

We discern that the Legislature intended not to allow parties to delay the enforcement of mandatory venue provisions and set forth deadlines tied to trial. If we were to interpret Section 15.0642 as applying to a petition for writ of mandamus seeking relief from an order granting a venue-transfer motion and transferring an entire action to another court, we would render the entire statute meaningless because it would eviscerate any practical effect of the statutory deadlines. In the transferring court, a trial will never start and the party seeking mandamus relief will never receive a trial notice once the action is transferred to another county.

Our plain-language interpretation of Section 15.0642 is consistent with—not contrary to—our plenary-power jurisprudence. As noted above, once a trial court grants a venue-transfer motion, “the order is final as far as the transferring court is concerned.” *In re Sw. Bell Tel. Co.*, 35 S.W.3d at 605. And the trial court retains plenary power for only thirty days. *Id.*⁵ Thus, as of the date the trial court signed the

⁴ We can conceive of a factual scenario wherein a party seeking mandamus relief may receive notice of a trial setting from the transferring court within ten days of a trial court’s ruling on a venue-transfer motion. But because the deadline based on the second prong of Section 15.0642 is only ten days from the date the party received notice of the trial setting, the deadline would necessarily expire while the transferring court still had plenary power. We are not favored with such a record.

⁵ “Plenary power does not create jurisdiction where none exists under the law; instead, it is a phrase used to describe ‘a court’s full and absolute power over the subject matter and the parties in a case,’ which only exists as defined by statute or rule.” *Ex parte Leyendecker*, No. 05-22-01369-CR, 2023 WL 3114676, at * 2 (Tex. App.—Dallas Apr. 27, 2023, no pet.) (mem. op.). The Legislature is well versed in creating

order transferring an action to another county, there is no pending trial date in the transferring court. The trial court ordered the District Clerk of Dallas County to effectuate that transfer, and once effectuated, the underlying suit is now pending in Titus County for all intents and purposes. The trial court lost plenary power weeks before relator sought mandamus relief. Therefore, this proceeding against the respondent judge in Dallas County is moot.⁶

Relator does not contend that the deadlines in Section 15.0642 should be based on events taking place in the transferee court, and it presents no evidence of such deadlines, if any. But even if it did, we decline to interpret Section 15.0642 in a manner that allows the actions of a court in one county to dictate the deadline for a party to seek mandamus relief against a judge in another county.

Accordingly, we conclude that Section 15.0642 of the Texas Civil Practice and Remedies Code does not apply when a party seeks a writ of mandamus to compel a respondent judge to vacate an order granting a motion to transfer venue and transferring an entire action to another county.⁷

jurisdictional deadlines should it determine the same to be necessary and under what circumstances deadlines may be altered. *See, e.g., City of El Paso v. Marquez*, 380 S.W.3d 335, 341 (Tex. App.—El Paso 2012, no pet.) (holding that the 180-day deadline for filing discrimination complaints under the TCHRA is jurisdictional).

⁶ We express no opinion on whether this means relator may seek reconsideration of the venue-transfer ruling in Titus County or, if its request is denied, whether it could seek mandamus review of that ruling in the appropriate appellate court.

⁷ We limit our holding to the situation presented here wherein the respondent judge transferred the entire action to another county.

Additionally, even if Section 15.0642 did apply, though it does not, we would deny rehearing. It is relator's burden to provide the Court with a record that is sufficient to demonstrate entitlement to mandamus relief. *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding). Relator attempted to supplement its mandamus record with a purported copy of a trial notice. But the supplement does not comply with rule 52 and thus is not properly before the Court. *See* TEX. R. APP. P. 52.7(a)(1) (requiring material documents in a mandamus record to be sworn or certified copies). Because the parties in an original proceeding assemble their own record, this Court strictly enforces the requirements of rule 52 to ensure the integrity of the mandamus record. *In re Vasquez*, No. 05-15-00592-CV, 2015 WL 2375504, at *1 (Tex. App.—Dallas May 18, 2015, orig. proceeding) (mem. op.). Thus, relator failed to provide competent evidence showing it filed its mandamus petition timely under Section 15.0642, even if that statute did apply, though it does not.

Accordingly, for each of the above independent and alternative reasons, we deny relator's motion for rehearing.

/Bonnie Goldstein/

BONNIE LEE GOLDSTEIN
JUSTICE