

DENIED and Opinion Filed August 13, 2021



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-21-00687-CV

**IN RE GREG ABBOTT, IN HIS OFFICIAL CAPACITY AS GOVERNOR
OF THE STATE OF TEXAS, Relator**

**Original Proceeding from the 116th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-21-10101**

MEMORANDUM OPINION

Before Justices Osborne, Pedersen, III, and Goldstein
Opinion by Justice Goldstein

Relator Governor Greg Abbott's August 11, 2021 petition for writ of mandamus challenges the trial court's temporary restraining order enjoining certain portions of Executive Order GA-38. Entitlement to mandamus relief requires relator to show that the trial court clearly abused its discretion and that he lacks an adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding).

Based on our review of the petition, real party in interest's response, relator's reply, and the record before us, we conclude that relator has failed to show his entitlement to the relief requested. In doing so, we found the reasoning in the

dissenting opinion of *State v. El Paso County*, 618 S.W.3d 812 (Tex. App.—El Paso 2020, no pet.), persuasive. In particular, applying the plain language of the Texas Disaster Act, we conclude Judge Jenkins demonstrated a probable right to relief that the Governor’s power to suspend certain laws and rules under section 418.016(a) does *not* include the power to suspend the Act’s grant of authority to mayors and county judges to declare and manage local disasters under section 418.108. *See* TEX. GOV’T CODE §§ 418.001–.261. Accordingly, we deny the petition for writ of mandamus. Having denied the petition, we also deny relator’s emergency motion for temporary relief as moot.

/s/ Bonnie Lee Goldstein
BONNIE LEE GOLDSTEIN
JUSTICE