



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

JUDD E. STONE II
Solicitor General

(512) 936-2834
Judd.Stone@oag.texas.gov

July 13, 2021

Via e-filing

Blake A. Hawthorne
Clerk, Supreme Court of Texas

Re: No. 21-0538, *In re Turner, et al.*

Dear Mr. Hawthorne:

Respondents write to supplement their response brief of July 5 with this letter regarding events having taken place since that brief was filed.

On July 7, Governor Abbott issued the formal call to convene the Legislature in special session and included on the list of subjects for consideration the ability for the Legislature to “provid[e] appropriations to the Legislature and legislative agencies in Article X of the General Appropriations Act.” Press Release, *Governor Abbott Announces Special Session Agenda* (July 7, 2021), <https://tinyurl.com/23pumpkzu>. Since then, the respective committees in both the Texas Senate and the Texas House of Representatives have already advanced such bills out of committee, and the Senate may soon vote for final passage of its bill. This matter is squarely before the Legislature, and Relators have every ability to vote in favor of legislation to address the issue that they claim might injure them in the future.

But on July 12, House Democratic legislators—including many of the Relators—abandoned the State with the express purpose of preventing the Legislature from acting on bills they find uncongenial. *E.g.*, Alexa Ura & Cassandra Pollock, *Texas House Democrats flee the state in move that could block voting restrictions, bring Legislature to a halt*, Texas Tribune (July 12, 2021), <https://tinyurl.com/tribunejuly12>. Relators and other House Democrats have abdicated their responsibility to their constituents and the people of Texas, taking extreme actions to break a quorum of the House of Representatives. Their actions underscore that through this mandamus proceeding, Relators impermissibly ask this

Court to resolve a quintessential political dispute in their favor. Indeed, Relators acknowledge that Governor Abbott has placed Article X funding on the agenda for the ongoing special session. Reply 5. The Legislature, therefore, has a forum for addressing the very issue in dispute, yet it is Relators who are preventing that outcome by purposefully stopping the Legislature from being able to exercise its constitutionally granted powers.

This is now the second time in as many months that House Democrats, including the Democratic legislator Relators, have left their posts. And again, the House Democratic Relators have done so for a single purpose—to block the enactment of legislation Democrats disfavor. *See* Pet. 19–20 (admitting that Democrats “left the chamber . . . to deny the House a quorum to act on the bills”); Ura & Pollock, *supra*, (quoting a joint statement by Democratic leaders that “Texas House Democrats stand united in [their] decision to break quorum”). Their gesture further demonstrates that the legislative-funding issue raised in the petition is a political question unsuited for adjudication. *See* Resp. 12–14. Relators are asking this Court to deliver to them what they cannot achieve—and do not even intend to try to achieve—through the legislative process established by our Constitution. This simply is not a question for the courts; it is a matter for the Legislature, and one the House of Representatives was actively considering until Relators and other House Democrats stopped it.

In this way, Relators are now literally—and intentionally—causing any harm they have complained about in this case. By staging another walkout, Relators and other House Democrats are forcing the Legislature into the result they say would injure them—the lack of Article X funding. Proceeding with this case would improperly reward Relators for their misguided attempt to manufacture jurisdiction and would waste this Court’s resources. Mandamus is an extraordinary remedy and not an absolute right. *Rivercenter Assocs. v. Rivera*, 858 S.W.2d 366, 367 (Tex. 1993) (orig. proceeding). Having done their best to scuttle the special session, Relators are not entitled to the extraordinary remedy of mandamus. *See In re Int’l Profit Assocs., Inc.*, 274 S.W.3d 672, 676 (Tex. 2009) (orig. proceeding) (per curiam) (explaining that issuance of mandamus “is controlled largely by equitable principles”); *Indus. Found. of the S. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 674 (Tex. 1976) (noting that “the equitable doctrine of clean hands has been invoked to deny issuance of the writ” and collecting cases). The Court should dismiss or deny the petition for writ of mandamus.

Respectfully submitted.

/s/ Judd E. Stone II
JUDD E. STONE II
Solicitor General
State Bar No. 24076720
Judd.Stone@oag.texas.gov

CERTIFICATE OF SERVICE

On July 13, 2021, this document was served electronically on Chad Dunn, lead counsel for Legislative Member and Caucus Relators, via chad@brazilanddunn.com, and on Jim Dunnam, lead counsel for Legislative Employee Relators, via jimdunnam@dunnamlaw.com.

/s/ Judd E. Stone II
JUDD E. STONE II

CERTIFICATE OF COMPLIANCE

Microsoft Word reports that this document contains 680 words, excluding exempted text.

/s/ Judd E. Stone II
JUDD E. STONE II