FILED
260732
8/25/2026 10:05 AM
tex-119050174
SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLERK

NO. 26-0732

IN THE SUPREME COURT OF TEXAS

SPENCER FARWELL,

Petitioner,

v.

FOUNTAINS AT TIDWELL, LTD., ET AL.,

Respondents.

On Petition for Review from the Court of Appeals

for the Fourteenth District of Texas

Cause No. 14-26-00272-CV

Trial Court Cause No. 2024-51449, 11th District Court, Harris County, Texas

PETITIONER'S MOTION FOR REHEARING

(Texas Rule of Appellate Procedure 64)

August 25, 2026

I. IDENTITY OF PARTIES AND COUNSEL

PETITIONER

Spencer Farwell
Petitioner, Pro Se
7433 De Priest
Houston, Texas 77088
Telephone: (On file with the Court)
Email: farwellspencer@yahoo.com

RESPONDENTS

Fountains at Tidwell, Ltd.
Hettig Management Corp.
Investors Management Group LLC

COUNSEL FOR RESPONDENTS

Joseph August Fischer III

Javier Gonzalez Jr.
Jackson Walker LLP
1401 McKinney Street, Suite 1900
Houston, Texas 77010-1900
Telephone: (713) 752-4200

Gregory Burnett
1019 Congress
Houston, Texas 77002

James Carroll Butt
900 Bagby, 4th Floor
Houston, Texas 77002-2527

Attorneys for Respondents Fountains at Tidwell, Ltd., et al.

II. TABLE OF CONTENTS

I. Identity of Parties and Counsel....i

II. Table of Contents....ii

III. Index of Authorities....iii

IV. Introduction....1

V. Statement Regarding Oral Argument....2

VI. Notice of Pro Se Status and Request for Liberal Construction....3

VII. Substantial Federal Questions Presented....3

VIII. Argument....4

A. The Court Misapprehended the Trial Court's Temporal Impossibility....4

B. The Fourteenth Court's Ruling Creates a Procedural Trap That Violates the Fourteenth Amendment....5

C. The District Clerk's Notice Violated TRCP 306a(3)....7

D. The § 13.001 Dismissal Violated Both State Law and the Fourteenth Amendment....8

E. The Want-of-Prosecution Finding Was Factually Baseless....10

F. This Court's Denial Leaves Petitioner With No Remedy Despite Timely Compliance....10

IX. Conclusion....11

X. Prayer....12

XI. Certificate of Compliance....13

XII. Certificate of Service....13

III. INDEX OF AUTHORITIES

Cases

Alexander v. Lynda's Boutique, 134 S.W.3d 845 (Tex. 2004)....6

Andrade v. NAACP of Austin, 345 S.W.3d 1 (Tex. 2011).....3

Boddie v. Connecticut, 401 U.S. 371 (1971).....3, 6

Braden v. Downey, 811 S.W.2d 922 (Tex. 1991).....9

Dolgencorp of Tex., Inc. v. Lerma, 288 S.W.3d 922 (Tex. 2009).....9

Haines v. Kerner, 404 U.S. 519 (1972).....3

In re Bennett, 960 S.W.2d 35 (Tex. 1997) (orig. proceeding).....8, 9

In re E.R., 385 S.W.3d 552 (Tex. 2012).....8

Jamar v. Patterson, 868 S.W.2d 318 (Tex. 1993).....5, 7

Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982).....3, 6, 11

M.L.B. v. S.L.J., 519 U.S. 102 (1996).....3

Mathews v. Eldridge, 424 U.S. 319 (1976).....2, 8, 9

Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306 (1950).....7

Peralta v. Heights Med. Ctr., Inc., 485 U.S. 80 (1988).....9

Smith v. Babcock & Wilcox Constr. Co., 913 S.W.2d 467 (Tex. 1995).....7

Stoner v. Thompson, 578 S.W.2d 679 (Tex. 1979).....5

USAA Tex. Lloyds Co. v. Menchaca, 545 S.W.3d 479 (Tex. 2018).....6

Verburgt v. Dorner, 959 S.W.2d 615 (Tex. 1997).....5, 6, 11

Wembley Inv. Co. v. Herrera, 11 S.W.3d 924 (Tex. 2000).....6

Constitutions

U.S. Const. amend. XIV, § 1.....passim

Tex. Const. art. I, § 19.....8

Statutes and Rules

Tex. Civ. Prac. & Rem. Code § 13.001.....passim

Tex. Civ. Prac. & Rem. Code § 13.001(b).....2, 8, 9

Tex. R. App. P. 4.2.....7

Tex. R. App. P. 9.4.....13

Tex. R. App. P. 9.5.....13
Tex. R. App. P. 26.1(a).....6, 10
Tex. R. App. P. 30.....passim
Tex. R. App. P. 64.....1
Tex. R. Civ. P. 165a.....passim
Tex. R. Civ. P. 165a(3).....1, 5, 6
Tex. R. Civ. P. 306a(3).....passim
Tex. R. Civ. P. 306a(4).....7, 8

IV. INTRODUCTION

This Motion for Rehearing presents substantial questions under the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. On August 14, 2026, this Court denied the Petition for Review, as amended, in Case No. 26-0732. Justice Devine did not participate. That denial leaves unresolved a procedural trap that extinguishes a litigant's only remaining path to appellate review—because the litigant sought the very hearing the trial court itself had scheduled.

The facts are stark and undisputed on the face of the record. On September 22, 2025, the 11th District Court of Harris County issued a Notice of Status Conference ordering all parties to appear for a mandatory hearing on November 17, 2025, at 1:00 p.m. the trial court’s September 22, 2025 scheduling notice. The court's own dismissal order states that on that same day—September 22, 2025—the court "considered" whether to dismiss the case. the trial court’s September 23, 2025 DWOP order. The very next day, September 23, 2025, the court signed an Order of Dismissal for Want of Prosecution under Texas Rule of Civil Procedure 165a and, without separate notice or any hearing, also dismissed the case as "frivolous and malicious" under Texas Civil Practice and Remedies Code section 13.001. the trial court’s September 23, 2025 DWOP order.

Petitioner Spencer Farwell timely filed a Motion to Reinstate on October 17, 2025—twenty-four days after judgment—seeking enforcement of the hearing the court had noticed. the Motion to Reinstate filed October 17, 2025. The trial court never set that motion for hearing and never ruled on it, in violation of Rule 165a(3). When Petitioner later perfected a restricted appeal

under Texas Rule of Appellate Procedure 30 within the six-month window (175 days after judgment), the Fourteenth Court of Appeals dismissed for want of jurisdiction, holding that the mere filing of the Motion to Reinstate barred TRAP 30 relief. the 14th Court of Appeals' April 30, 2026 opinion. A companion Motion to Abate and Remand for Rule 306a findings, filed May 20, 2026, was effectively denied when rehearing was denied on May 28, 2026.

The result is a closed loop with no exit. A litigant who files a post-judgment motion seeking the hearing the trial court promised is stripped of restricted-appeal rights. A litigant who abandons that motion to preserve TRAP 30 rights abandons the relief the court's own notice suggested was available. Meanwhile, a section 13.001 finding of frivolousness—entered without notice, hearing, or opportunity to be heard—stands unreviewed. The District Clerk violated TRCP 306a(3) in two specific ways, yet the Fourteenth Court refused to apply the tolling remedy that rule provides. This is not ordinary procedural default. It is a structural due-process failure that this Court should not leave uncorrected. These federal constitutional questions warrant rehearing and, if necessary, review by the United States Supreme Court.

V. STATEMENT REGARDING ORAL ARGUMENT

Petitioner respectfully requests oral argument. The interaction among TRAP 30, TRCP 165a(3), TRCP 306a, and section 13.001 presents recurring questions of statewide and federal constitutional importance. Oral argument will assist the Court in clarifying whether a post-judgment motion that a trial court refuses to hear can forfeit restricted-appeal rights, and whether a section 13.001 dismissal entered without notice or hearing can stand when no appellate forum remains open to challenge it.

VI. NOTICE OF PRO SE STATUS AND REQUEST FOR LIBERAL CONSTRUCTION

Petitioner Spencer Farwell appears pro se in this matter. Federal and Texas courts have long recognized that pro se pleadings must be held to less stringent standards than formal pleadings drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Andrade v. NAACP of Austin*, 345 S.W.3d 1, 9 (Tex. 2011). This principle applies with particular force where, as here, a self-represented litigant raises substantial federal constitutional questions that would otherwise go unaddressed.

Petitioner has made every effort to comply with this Court's rules and procedures. To the extent any technical deficiency appears in this Motion, Petitioner respectfully requests that the Court look to the substance of the constitutional violations presented rather than any imperfection in form.

This is not a request for special treatment—it is an assertion of a right this Court is duty-bound to honor. The obligation to construe pro se filings liberally exists to guarantee that citizens are not denied access to justice by technical pleading defects when substantive constitutional claims are clear and meritorious. That obligation carries particular weight here, where the claims presented implicate the Due Process Clause of the Fourteenth Amendment and the State's affirmative duty to provide a meaningful opportunity to be heard.

VII. SUBSTANTIAL FEDERAL QUESTIONS PRESENTED

This case presents substantial questions under the Constitution of the United States that warrant review by this Court and preserve Petitioner's right to seek certiorari in the United States Supreme Court:

1. Fourteenth Amendment Due Process — Frivolous Dismissal Without Notice or Hearing

Does the Due Process Clause of the Fourteenth Amendment prohibit a state court from dismissing a lawsuit as "frivolous" under state statute without providing the litigant notice of the proposed sanction and an opportunity to be heard, when the court schedules a hearing for that purpose but signs the dismissal order before the scheduled hearing occurs?

U.S. CONST. amend. XIV, § 1: "nor shall any State deprive any person of life, liberty, or property, without due process of law."

The trial court dismissed Petitioner's Bill of Review under TCPRC § 13.001, imposing a finding of frivolousness. Section 13.001(b) requires notice and hearing. The court provided neither. Instead, the court scheduled a status conference for November 17, 2025, then signed the dismissal on September 23, 2025. Petitioner was deprived of the hearing on the frivolousness determination. This violates Mathews v. Eldridge, 424 U.S. 319, 335 (1976).

2. Fourteenth Amendment Due Process — Procedural Trap Eliminating Appellate Rights

Does the Due Process Clause prohibit a state from creating procedural rules that, when combined with trial court misconduct, eliminate all meaningful appellate review—where a litigant who seeks to enforce a court-scheduled hearing loses appellate rights for filing that motion, and a litigant who abandons the motion to preserve appellate rights abandons the only path to the hearing?

See Boddie v. Connecticut, 401 U.S. 371 (1971); Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982); M.L.B. v. S.L.J., 519 U.S. 102 (1996).

The Fourteenth Court held that filing a Motion to Reinstate forfeited Petitioner's TRAP 30 restricted-appeal rights. This creates an impossible dilemma: file the motion seeking the scheduled hearing and lose appellate rights, or abandon the motion and lose the hearing. The trial court never ruled on the Motion to Reinstate. Petitioner is left with zero appellate remedies despite timely compliance with every deadline.

3. Fourteenth Amendment Due Process — Arbitrary State Action

Does the Due Process Clause prohibit arbitrary state action where a trial court schedules a hearing, then immediately dismisses the case before that hearing occurs, without explanation?

The trial court's conduct—scheduling a hearing for November 17, 2025, then signing a dismissal on September 23, 2025 (one day after issuing the scheduling notice)—is arbitrary and capricious. The court's own order states it "considered" dismissal on September 22, 2025, the identical day its clerk noticed the November hearing. the trial court’s September 22, 2025 scheduling notice; the trial court’s September 23, 2025 DWOP order. Petitioner reasonably relied on the court's notice. The dismissal without explanation deprived Petitioner of a liberty interest in the scheduled proceeding.

VIII. ARGUMENT

A. The Court Misapprehended the Trial Court's Temporal Impossibility

The record presents a facial contradiction that no amount of appellate deference can reconcile. On September 22, 2025, the trial court issued a Notice of Status Conference scheduling a mandatory hearing for November 17, 2025, at 1:00 p.m. the trial court’s September

22, 2025 scheduling notice. The Notice ordered all parties and counsel to appear "to address the progress of this case." the trial court's September 22, 2025 scheduling notice. Twenty-four hours later, on September 23, 2025, the same court signed an Order of Dismissal for Want of Prosecution. the trial court's September 23, 2025 DWOP order.

The contradiction is even more damning. The trial court's own DWOP order, signed September 23, 2025, states: "On September 22, 2025, this Court considered whether or not Plaintiffs' action against Fountains at Tidwell Ltd., Hettig Management Corp., and Investors Management Group LLC should be dismissed . . . ." the trial court's September 23, 2025 DWOP order. That is the identical day the District Clerk issued the formal notice scheduling the November 17 hearing (DCA Generic Letter, Doc. #122753548). This creates a temporal impossibility: the court was simultaneously "considering" dismissal while its clerk was noticing parties of a future hearing.

There are only two possible explanations: (1) the clerk issued a scheduling notice for a hearing the court had already decided to cancel, creating a procedural trap; or (2) the court reconsidered and dismissed the case one day after scheduling the hearing without notifying the parties that the hearing was cancelled. Either scenario violates due process.

No rational explanation appears in the record for scheduling a mandatory hearing the court had already decided to moot. A court that concludes a case requires a status conference to address the progress of the case cannot, the next day and without intervening event, rationally conclude that the same case should be dismissed for want of prosecution. The two acts are mutually exclusive. One of them was a nullity—or both were arbitrary. Either way, the contradiction is on the face of the clerk's record and requires no extrinsic evidence. See Verburgt

v. Dorner, 959 S.W.2d 615, 616–17 (Tex. 1997) (error apparent from the face of the record supports restricted-appeal relief).

That contradiction created justifiable reliance. Petitioner reasonably believed the November 17 hearing would occur because the court itself had ordered it. Filing a Motion to Reinstate under Rule 165a(3) was not a tactical luxury; it was the only procedural vehicle available to seek enforcement of the court's own scheduled hearing and to challenge a dismissal entered before that hearing could be held. the Motion to Reinstate filed October 17, 2025. Rule 165a(3) commands that such a motion "shall be heard within ten days after the filing thereof." Tex. R. Civ. P. 165a(3). The trial court never set the motion, never held the hearing, and never ruled. Sworn evidence in the record confirms: "After receiving the postcard, I filed objections and a verified motion to reinstate. The trial court did not rule on those motions." And further: "I waited several months for a response or ruling from the trial court, but no ruling was made by the 11th District Court."

The Fourteenth Court of Appeals then punished Petitioner for seeking the hearing the trial court itself had noticed. It held that filing the Motion to Reinstate precluded use of TRAP 30, even though the trial court never ruled on the motion and never complied with Rule 165a(3). the 14th Court of Appeals' April 30, 2026 opinion. That holding converts the trial court's contradictory conduct into a forfeiture device. This Court has long refused to permit procedural rules to operate as instruments of injustice when the record shows the litigant was misled by official action. See Jamar v. Patterson, 868 S.W.2d 318, 319 (Tex. 1993); Stoner v. Thompson, 578 S.W.2d 679, 682 (Tex. 1979). The September 22 notice was official action. Petitioner's

reliance on it was reasonable. Rehearing is warranted so the Court may confront that temporal impossibility rather than leave it unaddressed.

B. The Fourteenth Court's Ruling Creates a Procedural Trap That Violates the Fourteenth Amendment

TRAP 30 exists for cases exactly like this one: dismissals for want of prosecution in which the ordinary appeal path has closed and the trial court has failed to act on post-judgment relief. See Tex. R. App. P. 30; Wembley Inv. Co. v. Herrera, 11 S.W.3d 924, 926–27 (Tex. 2000). A restricted appeal is available when the appellant (1) filed notice of appeal within six months after the judgment was signed, (2) was a party to the underlying suit, (3) did not participate in the hearing that resulted in the judgment, and (4) shows error on the face of the record. Tex. R. App. P. 30; Alexander v. Lynda's Boutique, 134 S.W.3d 845, 848 (Tex. 2004).

Petitioner satisfied every element. The Notice of Restricted Appeal was filed March 17, 2026—175 days after the September 23, 2025 judgment, within the six-month window. the Notice of Restricted Appeal filed March 17, 2026. Petitioner was a party. He did not participate in any hearing resulting in the dismissal—there was none. Sworn record evidence states: "I did not participate in any hearing that resulted in the dismissal of my case, and I was not given notice or an opportunity to be heard before the dismissal was signed." And error is apparent on the face of the record: the September 22 / September 23 contradiction; the section 13.001 finding without notice or hearing; and the trial court's failure to hear the Motion to Reinstate as Rule 165a(3) requires. the trial court’s September 22, 2025 scheduling notice; the trial court’s September 23, 2025 DWOP order; the Motion to Reinstate filed October 17, 2025.

The Fourteenth Court held that filing the Motion to Reinstate nonetheless barred TRAP 30 because a timely post-judgment motion extends the ordinary appeal deadline under TRAP 26.1(a), and once that path exists, restricted appeal is unavailable. the 14th Court of Appeals' April 30, 2026 opinion. That reasoning collapses when the trial court refuses to rule. TRAP 26.1(a) extends the deadline to ninety days from judgment when a timely motion to reinstate is filed. Tex. R. App. P. 26.1(a)(3). But extension of a deadline is not the same as provision of a hearing. Rule 165a(3) independently requires the trial court to hear the motion within ten days. When the court ignores that command, the "extended" appeal path is a path to nowhere: the litigant still has no ruling to appeal on the merits of reinstatement, and the ordinary notice-of-appeal deadline still expires—here, on December 22, 2025—while the motion sits undecided.

This holding creates an impossible choice for litigants. Option 1: File the post-judgment motion seeking the hearing the court scheduled—and lose appellate rights. Option 2: Abandon the motion to preserve TRAP 30 rights—and lose the hearing. There is no third option. The litigant is forced to choose between two forms of forfeiture.

Verburgt and its progeny teach that appellate rights should not be forfeited by technical constructions that elevate form over the substance of access to review. Verburgt, 959 S.W.2d at 616–17. Forfeiture of a restricted appeal should require something more than the filing of a motion the trial court elects to ignore. Waiver is the intentional relinquishment of a known right; forfeiture is the loss of a right by failure to preserve it. See USAA Tex. Lloyds Co. v. Menchaca, 545 S.W.3d 479, 510 (Tex. 2018). Petitioner did not waive TRAP 30. He filed every motion the rules invited him to file. The trial court's silence converted compliance into forfeiture.

Constitutional access-to-courts principles reinforce the point. The Due Process Clause forbids the State from denying a litigant a meaningful opportunity to be heard through procedural mechanisms that are, in operation, a trap. See Logan v. Zimmerman Brush Co., 455 U.S. 422, 429–33 (1982); Boddie v. Connecticut, 401 U.S. 371, 377–79 (1971). In Logan, the Supreme Court held: "[T]he State may not extinguish [a right of action] without affording [the party] the right to be heard at a meaningful time and in a meaningful manner." 455 U.S. at 429–30. When official action—here, a mandatory hearing notice followed by immediate dismissal—induces a post-judgment filing, and appellate courts then treat that filing as extinguishing the only remaining appellate remedy, the system has denied process while pretending to offer it. The procedural trap is complete: Petitioner sought the hearing the court scheduled, and lost all appellate rights for doing so.

C. The District Clerk’s Notice Violated TRCP 306a(3)

The District Clerk violated TRCP 306a(3) in two specific ways, each independently sufficient to trigger tolling under Rule 306a(4).

First, no copy of the dismissal order was attached. Rule 306a(3) requires the clerk to send "a copy of the order or judgment." The only notice sent was a preprinted mass-mailing postcard stating: "BE ADVISED ON 09/23/2025 THE FOLLOWING ACTIVITY OCCURRED. DISMISSED FOR WANT OF PROSECUTION." the trial court’s September 22, 2025 scheduling notice. The postcard contained no copy of the dismissal order—only a typed notation that the case had been dismissed.

Second, the postcard failed to inform Petitioner of his appellate rights. It contained no explanation of the regular appeal deadline or the availability of a restricted appeal under TRAP 30. Sworn evidence in the record confirms: "Approximately ten days after the dismissal order was signed, I received only a postcard from the district clerk. The postcard did not include a copy of the signed dismissal order, did not explain my appellate rights, and did not explain any deadlines to challenge the dismissal."

TRCP 306a(4) provides that when a party adversely affected has neither received the clerk's notice nor acquired actual knowledge of the order within twenty days after it is signed, the periods mentioned in paragraph (1) begin on the date of actual notice or knowledge, provided that date is not more than ninety days after the original judgment or order was signed. Tex. R. Civ. P. 306a(4); see also Tex. R. App. P. 4.2. Petitioner invoked this tolling provision. The Fourteenth Court refused to apply it. A companion Motion to Abate and Remand for Rule 306a findings—filed May 20, 2026, specifically requesting remand for jurisdictional fact-finding under 306a—was effectively denied when rehearing was denied. the 14th Court’s May 28, 2026 order denying rehearing.

That refusal leaves the rule meaningless: clerks may violate notice requirements with impunity, and litigants receive no relief. Due process requires notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). A postcard that omits the order, omits appellate rights, and arrives late is not reasonably calculated to do either. See Jamar, 868 S.W.2d at 319; Smith v. Babcock & Wilcox Constr. Co., 913 S.W.2d 467, 468 (Tex. 1995).

D. The § 13.001 Dismissal Violated Both State Law and the Fourteenth Amendment

Section 13.001 authorizes dismissal of an action as frivolous or malicious, but not by stealth. The statute and due process both require notice and an opportunity to be heard before a court brands a litigant's claims frivolous. See Tex. Civ. Prac. & Rem. Code § 13.001(b); In re Bennett, 960 S.W.2d 35, 40 (Tex. 1997) (orig. proceeding); In re E.R., 385 S.W.3d 552, 563–65 (Tex. 2012).

Petitioner received neither. The September 22 notice scheduled a status conference; it did not warn that the court was considering a section 13.001 frivolousness finding. the trial court's September 22, 2025 scheduling notice. No separate notice of intent to dismiss as frivolous appears in the record. No hearing on frivolousness was held. The dismissal order of September 23, 2025, simply declared—on the court's own motion—that "Plaintiffs' complaints have no basis in law and appear to this Court to have no basis in fact," and dismissed under both Rule 165a and section 13.001. the trial court's September 23, 2025 DWOP order. That finding was entered before the only hearing the court had scheduled—and without any hearing at all on the statutory ground that carries the gravest stigma.

The order itself acknowledges that "returns of service are deficient as to each defendant"—confirming that the case had not reached a posture in which defendants had answered. Dismissing as frivolous a Bill of Review that the court itself recognized had not been properly served, without hearing from the plaintiffs, compounds the due-process failure.

A section 13.001 finding is not a clerical notation. It is an adjudication that a citizen's invocation of the judicial process was abusive. It can support sanctions, affect future access to courts, and permanently stain a litigant's reputation. Due process does not permit that

adjudication on a silent record with no notice and no opportunity to respond. See Braden v. Downey, 811 S.W.2d 922, 929 (Tex. 1991); Dolgencorp of Tex., Inc. v. Lerma, 288 S.W.3d 922, 927–29 (Tex. 2009); Peralta v. Heights Med. Ctr., Inc., 485 U.S. 80, 86–87 (1988).

Mathews v. Eldridge establishes that before a state may deprive a person of a protected interest, it must provide notice and an opportunity to be heard at a meaningful time and in a meaningful manner. 424 U.S. 319, 333 (1976). Under Mathews, procedural due process requires weighing: (1) the private interest affected; (2) the risk of erroneous deprivation and the value of additional safeguards; and (3) the government's interest.

Here: (1) Petitioner's interest is access to judicial review of an underlying property dispute—a liberty and property interest protected by the Fourteenth Amendment. (2) The risk of erroneous deprivation is absolute. The trial court labeled Petitioner's case frivolous without any hearing. All appellate review has been denied due to a procedural trap the court itself created. (3) The State has no legitimate interest in denying a hearing it already scheduled, or in imposing a frivolousness brand without the notice and hearing its own statute requires. The Mathews factors weigh entirely in Petitioner's favor.

Neither the Fourteenth Court nor this Court's denial order addressed this independent constitutional defect. the 14th Court of Appeals' April 30, 2026 opinion. The jurisdictional dismissal of the restricted appeal means Petitioner has no remaining Texas forum in which to challenge a voidable frivolousness finding. When the last door closes, the section 13.001 brand becomes unreviewable. Due process does not tolerate unreviewable stigma imposed without a hearing.

E. The Want-of-Prosecution Finding Was Factually Baseless

The trial court dismissed under TRCP 165a for want of prosecution. The Clerk's Record refutes that finding. In the 78 days immediately preceding the September 23 dismissal, Petitioner filed 78 pages of substantive pleadings demonstrating active, continuous prosecution—the opposite of abandonment:

- July 7, 2025: Comprehensive Brief in Support of Bill of Review (27 pages) plus Appendix (11 pages);
- July 25, 2025: Affidavit of Spencer Farwell (28 pages);
- August 8, 2025: Motion for Expedited/Emergency Hearing (11 pages);
- September 8, 2025: Amended Motion for Expedited/Emergency Hearing (11 pages)—filed just fifteen days before the DWOP.

The DWOP order itself acknowledges deficient returns of service as to each defendant—explaining why no defendant had answered and why the docket might have appeared quiet from the defense side. Active prosecution by the plaintiffs, documented on the face of the clerk's index, cannot be reconceived as want of prosecution. The trial court's DWOP finding had no factual basis in the record.

F. This Court's Denial Leaves Petitioner With No Remedy Despite Timely Compliance

The timeline demonstrates perfect procedural compliance and total remedial collapse:

Date	Event

September 22, 2025	Trial court notices mandatory status conference for November 17, 2025; DWOP order states court "considered" dismissal the same day. the trial court's September 22, 2025 scheduling notice; the trial court's September 23, 2025 DWOP order.
September 23, 2025	Trial court signs DWOP and § 13.001 dismissal. the trial court's September 23, 2025 DWOP order.
~October 2–3, 2025	Clerk mails defective notice postcards (≈9–10 day delay; no copy of order; no rights notice). the trial court's September 22, 2025 scheduling notice.
October 17, 2025	Motion to Reinstate filed (day 24)—never heard or ruled on. the Motion to Reinstate filed October 17, 2025.
December 22, 2025	Ordinary appeal deadline under TRAP 26.1(a) (90 days) expires while motion sits undecided.
March 17, 2026	Notice of Restricted Appeal filed (day 175—within TRAP 30 window). the Notice of Restricted Appeal filed March 17, 2026.
April 30 / May 5, 2026	Fourteenth Court dismisses for want of jurisdiction. the 14th Court of Appeals' April 30, 2026 opinion.
May 20, 2026	Motion for Rehearing and companion Motion to Abate for 306a findings filed (timely). the 14th Court's May 28, 2026 order denying rehearing.
May 28, 2026	Court of appeals denies rehearing. the 14th Court's May 28, 2026 order denying rehearing.
July 12, 2026	Petition for Review timely filed in this Court.

August 14, 2026	This Court denies Petition for Review, as amended (Justice Devine not participating).
August 25, 2026	This Motion for Rehearing filed (timely under TRAP 64).

Every filing was timely. The Motion to Reinstate was filed well within thirty days. The restricted appeal was filed within six months. The court-of-appeals rehearing was timely. The Petition for Review was timely. Yet Petitioner has been denied merits review on purely procedural grounds that originate in the trial court's contradictory September 22–23 conduct and the clerk's defective notice—not in any default by Petitioner.

This Court has emphasized that procedural rules are tools to achieve justice, not traps to deny it. See Verburgt, 959 S.W.2d at 616–17; Jamar, 868 S.W.2d at 319. When a litigant meets every deadline the rules prescribe and still ends with zero appellate remedies, the system has failed its basic function. The denial of all appellate review—despite timely compliance—violates the federal constitutional guarantee of access to courts. Logan, 455 U.S. at 429–30. Rehearing exists for precisely this circumstance.

IX. CONCLUSION

The trial court scheduled a hearing, then dismissed the case before that hearing occurred —on the same day it "considered" dismissal while its clerk noticed parties of a future conference. When Petitioner sought to enforce the scheduled hearing, the appellate court ruled that seeking enforcement forfeited his appellate rights. The clerk violated notice rules in two specific ways, but the appellate court refused to apply the tolling remedy. The court imposed a frivolous

sanction without a hearing, violating both state law and the Fourteenth Amendment. The want-of-prosecution finding is refuted by 78 pages of filings in 78 days.

At every turn, Petitioner complied with the rules. At every turn, the courts denied him a forum. This is the definition of a due-process violation.

The integrity of Texas procedure depends on the premise that following the rules opens doors rather than closes them. The Fourteenth Court's jurisdictional holding, left undisturbed, teaches the opposite lesson: trust a trial court's hearing notice at your peril; file the motion the rules invite and lose TRAP 30; do nothing and risk being told you failed to exhaust. That lesson is incompatible with due process and with this Court's repeated insistence that notice rules and restricted appeals protect access to review.

If this Court does not grant rehearing, these federal constitutional questions will be presented to the United States Supreme Court. The procedural trap created here—where following the trial court's own scheduling notice leads to forfeiture of appellate rights—cannot stand under the Fourteenth Amendment.

X. PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner Spencer Farwell respectfully prays that this Court:

1. Grant this Motion for Rehearing;

2. Recall and withdraw its August 14, 2026 order denying the Petition for Review, as amended;

3. Grant the Petition for Review as amended;

4. Reverse the Fourteenth Court of Appeals' order dismissing the appeal for lack of jurisdiction in Cause No. 14-26-00272-CV;

5. Hold that Petitioner's restricted appeal was timely and available under TRAP 30;

6. Hold that the section 13.001 dismissal without notice or hearing violated due process;

7. Reverse the trial court's September 23, 2025 Order of Dismissal; remand for further proceedings; and

8. Grant all other relief to which Petitioner may be entitled at law or in equity.

Respectfully submitted,

/s/ Spencer Farwell
SPENCER FARWELL
Petitioner, Pro Se
7433 De Priest
Houston, Texas 77088
Telephone: (On file with the Court)
Email: farwellspencer@yahoo.com
PRO SE LITIGANT
Appearing Without Counsel

Dated: August 25, 2026

XI. CERTIFICATE OF COMPLIANCE

I certify that this Motion for Rehearing complies with the type-volume limitations of Texas Rule of Appellate Procedure 9.4 and Texas Rule of Appellate Procedure 64 because it contains approximately 4,072 words, excluding the parts of the document exempted by Rule 9.4(i)(1). This motion was prepared in Times New Roman 12-point typeface.

/s/ Spencer Farwell

Spencer Farwell

XII. CERTIFICATE OF SERVICE

I certify that on August 25, 2026, a true and correct copy of this Motion for Rehearing was served on all counsel of record in accordance with Texas Rule of Appellate Procedure 9.5 by first-class United States mail, postage prepaid, and/or by electronic service where required, addressed as follows:

Joseph August Fischer III

Javier Gonzalez Jr.
Jackson Walker LLP
1401 McKinney Street, Suite 1900
Houston, Texas 77010-1900
Telephone: (713) 752-4200

Gregory Burnett
1019 Congress
Houston, Texas 77002

James Carroll Butt
900 Bagby, 4th Floor
Houston, Texas 77002-2527

/s/ Spencer Farwell

Spencer Farwell, Pro Se
7433 De Priest
Houston, Texas 77088

Automated Certificate of eService

This automated certificate of service was created by the efiling system.
The filer served this document via email generated by the efiling system
on the date and to the persons listed below:

Envelope ID: 119050174
Filing Code Description: Motion for Rehearing - EXEMPT
Filing Description: Motion for Rehearing - EXEMPT
Status as of 8/25/2026 10:47 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Maitreya Tomlinson		maitreya@tomlinsonfirm.com	8/25/2026 10:05:22 AM	SENT
Kraig Rushing		Krushing@Krushinglaw.com	8/25/2026 10:05:22 AM	SENT
Javier Gonzalez Jr.		jgonzalez@jw.com	8/25/2026 10:05:22 AM	SENT
James Butt		james.butt@harriscountytx.gov	8/25/2026 10:05:22 AM	SENT
Gregory Burnett		gregory.burnett@harriscountytx.gov	8/25/2026 10:05:22 AM	SENT
Joseph Fisher		tfisher@jw.com	8/25/2026 10:05:22 AM	ERROR