

# ARKANSAS SUPREME COURT

No. 08-1368

CHRISTOPHER NEWTON WHITE AND  
HELEN LOUISE WHITE

Petitioners

v.

HON. JAY T. FINCH, CIRCUIT JUDGE,  
AND BRENDA DeSHIELDS, CIRCUIT  
CLERK

Respondents

Opinion Delivered      January 30, 2009

PRO SE PETITION FOR WRIT OF  
MANDAMUS AND INJUNCTION AND  
PRO SE MOTION TO INTERVENE  
[BENTON COUNTY CIRCUIT COURT,  
CV 2008-2172]

PETITION AS TO PETITIONER  
HELEN LOUISE WHITE DISMISSED;  
PETITION AS TO PETITIONER  
CHRISTOPHER NEWTON WHITE  
DENIED; MOTION MOOT.

## PER CURIAM

On August 29, 2008, Christopher Newton White, on his own behalf and purportedly on behalf of Helen Louise White, filed a number of documents in Benton County Circuit Court as part of an action styled as a replevin suit against four individuals, seeking to recover custody of minor children from those individuals. The partial record before us indicates that the Arkansas Department of Human Services filed a motion to intervene on the basis that it had an interest in preserving the adoptions under which the individuals named as defendants had obtained custody of the children, and, at the same time, filed a motion to transfer the matter to the court that had jurisdiction over the termination of parental rights and adoption proceedings concerning the children. The circuit court entered an order on October 15, 2008, that granted the motion to transfer.

On November 24, 2008, Mr. White, who again asserted his representation of Helen Louise White, filed a petition for writ of mandamus and injunction, asking this court, on behalf of himself and Ms. White, to order the Benton County Circuit Clerk to issue certain notices and documents to

return the children to petitioners' possession, or to order Honorable Jay T. Finch, Circuit Judge, to issue an order directing the clerk to perform those actions. Mr. White also seeks to prevent any further hearings or orders in the proceedings prior to this court's final decision on the matter. Later, Mr. White filed a motion to intervene, again purporting to represent himself and Helen Louise White, in which he seeks to amend his initial pleadings to include additional allegations as to the circuit clerk failing to file certain documents and denying the petitioners access to the courts.

We first note that Mr. White is not an attorney and is not authorized to represent Helen Louise White. We therefore dismiss the petition to the extent that it purports to assert claims on Ms. White's behalf. As to Mr. White's claims, individually, we deny the petition for the reasons set forth below, and, as a result, the motion that seeks to amend the petition is moot.

The purpose of a writ of mandamus is to enforce an established right or to enforce the performance of a duty. *Manila School Dist. No. 15 v. Wagner*, 357 Ark. 20, 159 S.W.3d 285 (2004). A petitioner must show a clear and certain right to the relief sought, and the absence of any other adequate remedy when requesting a writ of mandamus. *Johnson v. Hargrove*, 362 Ark. 649, 210 S.W.3d 79 (2005).

The petitioner here has not shown that there is no other adequate remedy than the requested writ. The petition in effect challenges the decision by the circuit court to treat the action filed as one for custody rather than replevin and to transfer the suit to the court with jurisdiction over the adoption proceedings. That decision may be appealed when a final order is entered. See *Evans v. Blankenship*, 374 Ark. 104, \_\_\_ S.W.3d \_\_\_ (2008). Accordingly, the petition is denied.

Petition as to petitioner Helen Louise White dismissed; petition as to Christopher Newton White denied; motion moot.