

CASE NO. SC2026-0985

Supreme Court of Florida

KEVIN EMAS,

Petitioner,

v.

RON DESANTIS,

in his official capacity as Governor of Florida,

Respondent.

**GOVERNOR'S RESPONSE
TO PETITION FOR WRIT OF MANDAMUS**

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ARGUMENT

Petitioner “seeks a writ of mandamus to compel the Governor to perform his duty to make [an] appointment” to the Third District Court of Appeal. Pet. at 4. But the Governor has already done so, having appointed Judge Thomas Rebull to fill the vacancy created by Petitioner’s retirement. **See Appendix** (redacted letter of appointment). Accordingly, Petitioner cannot demonstrate grounds for issuance of the writ. *See, e.g., State ex rel. Dixie Inn v. City of Miami*, 24 So. 2d 705, 706 (Fla. 1946) (explaining availability of the writ “to coerce the performance of official duties where officials charged by law with the performance of a duty refuse or fail to perform the same”); *State ex rel. Bergin v. Dunne*, 71 So. 2d 746, 749 (Fla. 1954) (mandamus “will not lie to compel the parties against whom it is directed to do a vain or useless thing”).

Given the appointment, this mandamus proceeding is moot. *See, e.g., Sneed v. Inch*, No. SC20-1603, 2020 WL 6797418, at *1 (Fla. Nov. 19, 2020) (“It appearing that the First District Court of Appeal has issued a ruling . . . , Petitioner’s ‘Emergency Petition for Writ of Mandamus’ is hereby dismissed as moot.”); *Jackson v. State*,

2 So. 3d 981 (Fla. 2009) (table decision) (“It appearing that the Fifth District Court of Appeal has ruled on the various motions identified by Petitioner and has ruled on Petitioner’s appeals . . . , the petition for writ of mandamus is hereby dismissed as moot.”).

Petitioner has since conceded through counsel that “the relief he requested is now moot” in light of the appointment, but indicated that he intends nonetheless to file a reply brief. Whatever Petitioner might intend to argue, the writ is not designed to otherwise “remedy” alleged violations (Pet. at 4), and a mandamus proceeding is not a vehicle to air whatever lingering grievances a petitioner may harbor. Instead, the only purpose and function of a writ of mandamus is to compel performance of a ministerial duty not yet performed. *See, e.g., Fla. Soc. of Newspaper Editors, Inc. v. Fla. Pub. Serv. Comm’n*, 543 So. 2d 1262, 1265–66 (Fla. 1st DCA 1989) (“[T]he purpose of mandamus is to compel the performance of a specific duty imposed by law.”). As that purpose can no longer be achieved in this proceeding, the writ should not issue.

CONCLUSION

Governor DeSantis respectfully requests that the Court dismiss the petition as moot.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that this computer-generated Response is prepared in Bookman Old Style 14-point font and complies with the font requirement of Florida Rule of Appellate Procedure 9.045(b) and the word-limit requirement of Rule 9.100(j). I further certify that a true and correct copy of this Response has been served on all counsel of record through the Florida Courts E-Filing Portal this 10th day of July, 2026.

/s/ David Axelman