

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED May 30, 2025
Original Proceeding District Court, El Paso County, 2022JV30171	
In Re: Petitioners: The People of the State of Colorado, El Paso County Attorney Office Human Services, and Department of Human Services, In the Interest of Child: J. C. W., and Concerning Respondents: R. K. W. and J. W., and Intervenors: R. K. N., Jr.; T. L. N.; and J. A. N.	Supreme Court Case No: 2025SA120
ORDER OF COURT	

Upon consideration of Petitioners' Petition for Order to Show Cause Pursuant to C.A.R. 21, the responses filed by Respondent J.W. ("Father") and the District Court, and Petitioners' reply, and being sufficiently advised in the premises,

IT IS HEREBY ORDERED as follows:

The Order to Show Cause issued by this Court on April 30, 2025 is hereby MADE ABSOLUTE, and the District Court's February 12, 2025 and March 25, 2025 orders, which granted Father relief from the judgment of adjudication pursuant to C.R.C.P. 60(b)(5), are hereby vacated.

C.R.C.P 60(b)(5) is a residuary provision that has been construed to apply only to situations not covered by the other provisions of C.R.C.P. 60(b) and "only in extreme situations or extraordinary circumstances." *Davidson v. McClellan*, 16 P.3d 233, 237 (Colo. 2001). Father's motion here was properly governed by C.R.C.P. 60(b)(1), which authorizes a court to relieve a party from a final judgment due to excusable neglect. Such a motion had to have been filed, however, not more than 182 days after the judgment at issue was entered. C.R.C.P. 60(b). Accordingly, Father's C.R.C.P. 60(b) motion was untimely, and the District Court erred in granting that motion.

Contrary to the District Court's assertions, that Court cannot avoid the mandates of C.R.C.P. 60(b) by claiming that it had the inherent authority to amend its order of adjudication, which became final years ago. Nor can the District Court rely, for the first time before us, on C.R.C.P. 60(b)(4), a position that no party asserted below. And even if C.R.C.P. 60(b)(5) could apply here, no evidence supports the District Court's speculative assertion that the Court of Appeals would

accept Father's appeal two years late and reverse the District Court's summary judgment ruling.

Accordingly, we hereby make our Order to Show Cause absolute, we vacate the District Court's February 12, 2025 and March 25, 2025 orders, and we remand this case to the District Court for further proceedings consistent with this Order.

BY THE COURT, EN BANC, MAY 30, 2025.