

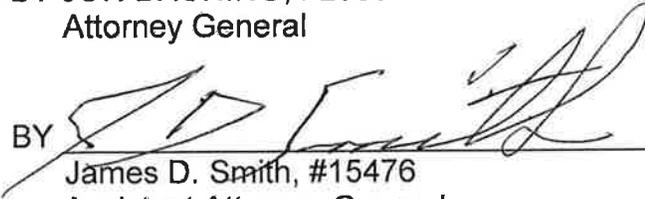
judge. The Respondent's injunction order constituted judicial interference with the Board of Pardons' exclusive Constitutional commutation power, violated the separation of powers clause of Article II, § 1, of the Nebraska Constitution, was entered without judicial authority or jurisdiction, and unconstitutionally made the judicial and legislative branches the controllers of whether and when the Board of Pardons could exercise its own constitutional power to commute sentences.

Delaying the Board of Pardons' exercise of its constitutional power pending further proceedings in the district court or until the other two branches of government might, as the Respondent ordered, "address the constitutional mandates of [the United States Supreme Court decision in] *Miller v. Alabama*" is not an adequate remedy, in view of the Respondent's lack of jurisdiction and judicial interference with the Board of Pardons' constitutional power to commute sentences. See, *State v. Simants*, 194 Neb. 783, 787 (1975): "We have jurisdiction in an original action of mandamus if the [trial judge's order in violation of the Constitution] is in whole or in some significant part wholly void."; *State v. William G. (In the Interest of William G.)*, 256 Neb. 788, 794 (1999): "Where there is no adequate remedy by the ordinary course of the law, a duty is imposed upon this court to prevent violation of law by inferior tribunals."; *State ex rel. Wolski v. Reed*, 146 Neb. 348 (1945): "[A] judge of the district court may, if the ordinary remedy is inadequate, be compelled by mandamus to vacate or set aside an order or judgment granted by him when done without jurisdiction or authority."

Governor Dave Heineman, Attorney General
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as members of the Nebraska Board of
Pardons, as Relators,

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