

FOURTEENTH COURT OF APPEALS OF TEXAS

In re Elaine T. Marshall, Individually, et al.

In re Marshall · No. 14-20-00714-CV · Decided October 21, 2020

SUMMARY

The Fourteenth Court of Appeals granted appellants' request to treat their previously filed brief as a petition for writ of mandamus and opened a related original proceeding under appellate number 14-20-00714-CV. The court ordered transfer of the appellate record, required relators to pay the filing fee, and requested a response from the respondent.

CASE DETAILS

COURT	Fourteenth Court of Appeals of Texas
WRITING FOR THE COURT	Per Curiam; Justice Wise; Justice Jewell; Justice Poissant
JURISDICTION	Texas
DECIDED	October 21, 2020
DOCKET	14-20-00714-CV
DISPOSITION	other
PROCEDURAL POSTURE	After dismissing the appeal, the court granted appellants' request to treat their previously filed brief as a petition for writ of mandamus and opened a separate original proceeding.
PRECEDENTIAL VALUE	Published
PARTIES	Elaine T. Marshall, individually, Elaine T. Marshall as Independent Executor of the Estate of E. Pierce Marshall, Deceased, et al. v. Preston Marshall

TOPICS

[appellate procedure](#)[probate procedure](#)[probate](#)[civil procedure](#)

PRACTICE AREAS

[appellate procedure](#)[probate](#)

QUESTIONS PRESENTED

1. Whether the court should treat appellants' previously filed appellate brief as a petition for writ of mandamus.
2. Whether the related original proceeding should be opened and the appellate record transferred into it.

HOLDINGS

1. The court granted appellants' request to consider their previously filed brief as a petition for writ of mandamus.
2. The court ordered that the original proceeding be opened, that the appellate record be transferred into it, and that the respondent provide a response.

KEY QUOTATIONS

“That request is granted. Appellants’ original proceeding will be opened as appellate number 14-20-00714-CV.”

FACTUAL BACKGROUND

The order concerns an appeal and related mandamus proceeding arising from a probate case. The court had dismissed the appeal and was asked to consider the appellants' previously filed brief as a mandamus petition.

PROCEDURAL HISTORY

The court had issued an opinion on September 3, 2020, dismissing the appeal in appellate number 14-20-00192-CV. On September 25, 2020, appellants requested that their previously filed brief be considered a petition for writ of mandamus. The court granted that request, opened original proceeding number 14-20-00714-CV, ordered transfer of the appellate record, assessed the filing fee, and requested a response from the respondent.

DISPOSITION

other

OPINION

in Re Elaine T. Marshall, Individually

PER CURIAM.

Order filed October 21, 2020 In The Fourteenth Court of Appeals _____

NO. 14-20-00192-CV

ELAINE T. MARSHALL, INDIVIDUALLY, ELAINE T. MARSHALL AS

INDEPENDENT EXECUTOR OF THE ESTATE OF E. PIERCE

MARSHALL, DECEASED, ET AL, Appellants V. PRESTON MARSHALL, Appellee &

NO. 14-20-00714-CV

IN RE ELAINE T. MARSHALL, INDIVIDUALLY, ET AL

On Appeal from the Probate Court No. 4 Harris County, Texas Trial Court Cause No. 365,053-403
ORDER

On September 3, 2020, this court issued an opinion dismissing this appeal. On September 25, 2020, appellants requested that this court consider its previously filed brief as a petition for writ of mandamus. That request is granted. Appellants' original proceeding will be opened as appellate number 14-20-00714-CV. The clerk of this court is ordered to transfer the appellate record from this cause into appellate number 14-20-00714-CV. Relators in the mandamus proceeding are ordered to pay the \$155 filing fee in cause number 14-20-00714-CV within 10 days from today's date. The court further requests a response from respondent to relators' petition for writ of mandamus within ten days of the date of this order.

PER CURIAM

Panel Consists of Justices Wise, Jewell, and Poissant.