

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

In re Thomas Taylor

No. 01-13-00223-CV · No. 01-13-00223-CV · Decided April 11, 2013

SUMMARY

The First Court of Appeals of Texas considered Thomas Taylor’s petition for a writ of mandamus challenging interim temporary orders in a suit to modify the parent-child relationship. The court denied the petition without prejudice to refiling and denied the requested temporary relief because a motion to reconsider the orders remained pending in the trial court.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Chief Justice Radack; Justice Higley; Justice Brown
JURISDICTION	Texas
DECIDED	April 11, 2013
DOCKET	01-13-00223-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original proceeding on a petition for writ of mandamus challenging two interim temporary orders in a suit to modify the parent-child relationship.
STANDARD OF REVIEW	Mandamus relief is discretionary and generally requires the relator to show a clear abuse of discretion and the absence of an adequate remedy by appeal; the court denied relief without reaching the merits because reconsideration remained pending.
PRECEDENTIAL VALUE	published
PARTIES	Thomas Taylor, Relator

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QUESTIONS PRESENTED

1. Whether the Court of Appeals should grant mandamus relief challenging interim temporary orders while a motion to reconsider those orders remained pending in the trial court.
2. Whether Taylor was entitled to temporary relief pending resolution of the mandamus petition.

HOLDINGS

1. The Court of Appeals denied the petition for writ of mandamus without prejudice to refiling because the challenged interim orders were still subject to a pending motion to reconsider in the trial court.
2. The request for temporary relief was denied.

KEY QUOTATIONS

“We deny Taylor’s petition for writ mandamus without prejudice to re-filing.”

FACTUAL BACKGROUND

The underlying proceeding was a suit to modify the parent-child relationship concerning a child identified as T.I.D. The trial court issued interim temporary orders on January 28, 2013, and February 1, 2013. When Taylor sought mandamus relief, his motion to reconsider those orders was still pending in the trial court, with an evidentiary hearing scheduled to continue on April 26, 2013.

PROCEDURAL HISTORY

The 311th District Court of Harris County signed interim temporary orders on January 28, 2013, and February 1, 2013. Taylor sought mandamus relief challenging those orders while a motion to reconsider remained pending in the trial court and an evidentiary hearing on that motion was scheduled to continue. The Court of Appeals denied the mandamus petition without prejudice to refiling and denied temporary relief.

DISPOSITION

writ_denied

OPINION

PER CURIAM.

Opinion issued April 11, 2013 In The Court of Appeals For The First District of Texas NO. 01-13-00223-CV IN RE THOMAS TAYLOR, Relator Original Proceeding on Petition for Writ of Mandamus MEMORANDUM OPINION Relator Thomas Taylor has filed a petition for writ of mandamus in this Court. See TEX. GOV’T CODE ANN. § 22.221 (Vernon 2004); see also TEX. R. APP. P. 52.1.

The related action pending in the trial court is a suit to modify the parent- child relationship in which the trial court has signed two interim temporary orders. * The orders were signed on

January 28, 2013 and on February 1, 2013, respectively.

In his mandamus petition, Taylor challenges the interim orders. A motion to reconsider the interim orders is pending and under consideration in the trial court with an evidentiary hearing to be continued on the motion on April 26, 2013.

We deny Taylor's petition for writ mandamus without prejudice to re-filing. We also deny the requested temporary relief. PER CURIAM Panel consists of Chief Justice Radack and Justices Higley and Brown. * The underlying case is In the Interest of [T.I.D.], A Child, cause number 2011– 07230, pending in the 311th District Court of Harris County, Texas, the Honorable Denise Pratt, presiding.