

COURT OF APPEALS OF TEXAS, ELEVENTH DISTRICT

In re Dancar Energy Construction, LLC

In re Dancar Energy Construction · No. 11-21-00050-CV · Decided April 7, 2021

SUMMARY

The Texas Eleventh Court of Appeals granted Dancar Energy Construction, LLC's motion for a temporary stay of a trial court order requiring production of four documents deemed nonprivileged. The court also authorized Dancar to file the documents under seal for in camera review in the pending mandamus proceeding.

CASE DETAILS

COURT	Court of Appeals of Texas, Eleventh District
WRITING FOR THE COURT	Per Curiam; Bailey, C.J.; Trotter, J.; Williams, J.
JURISDICTION	Texas
DECIDED	April 7, 2021
DOCKET	11-21-00050-CV
DISPOSITION	other
PROCEDURAL POSTURE	Original mandamus proceeding arising from discovery-related privilege rulings in the 385th District Court of Midland County, Texas.
PRECEDENTIAL VALUE	Procedural interim order; no substantive mandamus disposition stated.
PARTIES	Dancar Energy Construction, LLC

TOPICS

writ of certiorari appellate procedure discovery dispute privilege evidence

PRACTICE AREAS

Civil procedure Appellate procedure Evidence Construction law Commercial litigation

QUESTIONS PRESENTED

1. Whether the court should temporarily stay the district court's March 31, 2021 production order while considering the mandamus petition.
2. Whether the relator should be permitted to file the four disputed documents under seal for in camera review.

HOLDINGS

1. The court granted the relator's motion for a temporary stay and stayed the March 31, 2021 order until further order of the court or final resolution of the original proceeding.
2. The court permitted the relator to file the four identified documents under seal for in camera review and authorized the relator to request that the district clerk file them under seal if e-filing was not possible.

KEY QUOTATIONS

“We grant the motion and order that the March 31, 2021 order is stayed until further order of this court or final resolution of this original proceeding.” (1)

“We grant the motion and order that Relator may file documents numbered 453414–453414, 455073–455073, 455118–455118, and 876725–876725 under seal.” (1)

FACTUAL BACKGROUND

The underlying dispute concerned whether four documents were protected by privilege. The assigned district judge ruled on December 21, 2020, that the documents were not privileged, later denied reconsideration, and ordered Dancar Energy Construction, LLC to produce them by April 7, 2021. The relator sought mandamus relief and in camera appellate review of the documents.

PROCEDURAL HISTORY

Dancar Energy Construction, LLC petitioned for a writ of mandamus seeking to vacate portions of a December 21, 2020 order declaring four documents nonprivileged and a March 31, 2021 order denying reconsideration and requiring production by April 7, 2021. The relator also moved for a temporary stay and for permission to file the four documents under seal for in camera review. The court granted both motions but did not finally resolve the mandamus petition in this order.

DISPOSITION

other

OPINION

in Re Dancar Energy Construction, LLC

PER CURIAM.

Order filed April 7, 2021 In The Eleventh Court of Appeals _____ No. 11-21-00050-CV

IN RE DANCAR ENERGY CONSTRUCTION, LLC

Original Mandamus Proceeding

ORDER

Relator, Dancar Energy Construction, LLC, has filed a petition for writ of mandamus in which it requests that we direct the Honorable Robin Darr, sitting by assignment in the 385th District Court

of Midland County, Texas, (1) to vacate that part of a December 21, 2020 order in Cause Number CV-54482 in which she declared that four documents were not privileged and (2) to vacate and set aside a March 31, 2021 order in Cause Number CV-54482 in which she denied Relator's motion for reconsideration of the December 21, 2020 ruling and ordered Relator to produce the documents by April 7, 2021. Relator has filed two motions in this original proceeding. In the first motion, Relator requests that this court issue a temporary stay of the March 31, 2021 order while we consider the petition for writ of mandamus. We grant the motion and order that the March 31, 2021 order is stayed until further order of this court or final resolution of this original proceeding. In the second motion, Relator requests that this court allow Relator to file the four documents under seal for in camera review and to provide Relator with instructions for submitting the document to this court for in camera review. We grant the motion and order that Relator may file documents numbered 453414– 453414, 455073–455073, 455118–455118, and 876725–876725 under seal. If it is not possible for Relator to file the documents under seal through the court's e-filing system, Relator may request the district clerk to file the documents under seal with this court.

PER CURIAM

April 7, 2021 Panel consists of: Bailey, C.J., Trotter, J., and Williams, J. 2