

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

In re Kai Nonamé

No. 03-25-00937-CV · No. 03-25-00937-CV · Decided December 5, 2025

SUMMARY

The Texas Court of Appeals, Third District, dismissed Kai Nonamé’s emergency motion for temporary relief because the anticipated original habeas corpus and mandamus proceeding had not yet been filed. The court held that Texas Rule of Appellate Procedure 52.10 permits temporary relief only after commencement of an original proceeding and dismissed the motion without prejudice to refiling.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Rosa Lopez Theofanis; Justices Triana; Kelly; Theofanis
JURISDICTION	Texas Court of Appeals, Third District, at Austin
DECIDED	December 5, 2025
DOCKET	03-25-00937-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Relator filed an emergency motion for temporary relief in anticipation of filing an original habeas corpus and mandamus proceeding. The motion sought to stay enforcement and contempt proceedings and related orders in an underlying suit affecting the parent-child relationship.
PRECEDENTIAL VALUE	published
PARTIES	Kai Nonamé v. The State of Texas

TOPICS

- writ of certiorari
- appellate jurisdiction
- appellate procedure
- family law procedure
- remedies

PRACTICE AREAS

- appellate procedure
- civil procedure
- family law
- remedies

QUESTIONS PRESENTED

1. Whether the court may grant emergency temporary relief under Texas Rule of Appellate Procedure 52.10 before an original habeas corpus or mandamus petition has been filed.

HOLDINGS

1. An appellate court lacks jurisdiction to grant emergency temporary relief under Rule 52.10 unless the petition initiating the original proceeding has first been filed.

KEY QUOTATIONS

“Unless or until a petition is filed, there is no dispute before the Court and we therefore lack the power to act under the rule.” (at 2)

FACTUAL BACKGROUND

Kai Nonamé sought emergency relief to stay enforcement and contempt proceedings set for December 16, 2025, along with related orders in an underlying suit affecting the parent-child relationship. She represented that she was preparing an original petition for habeas corpus and mandamus but had not yet filed it, and asserted that immediate relief was necessary to prevent incarceration, protect due-process rights, preserve appellate jurisdiction, and protect the minor child from emotional and psychological harm.

PROCEDURAL HISTORY

The emergency motion was filed before the anticipated original habeas corpus and mandamus petition. The court held that it lacked jurisdiction to grant temporary relief under Texas Rule of Appellate Procedure 52.10 because no original proceeding had yet been commenced, and dismissed the motion without prejudice to refiling after a petition was filed.

DISPOSITION

dismissed

CASES CITED

- In re Terminix Intern., Co., 131 S.W.3d 651, 653 (Tex. App.—Corpus Christi—Edinburg 2004, no pet.)
- In re Kelleher, 999 S.W.2d 51, 52 (Tex. App.—Amarillo 1999, no pet.)
- In re Reed, 901 S.W.2d 604, 609 (Tex. App.—San Antonio 1995, orig. proceeding)

OPINION

In Re Kai Nonamé v. the State of Texas

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-25-00937-CV

In re Kai Nonamé

ORIGINAL PROCEEDING FROM BELL COUNTY

MEMORANDUM OPINION

Pending before the court is relator Kai Nonamé's emergency motion for temporary relief pending original habeas corpus and mandamus proceeding. The motion is sought to stay enforcement and contempt proceedings set for hearing on December 16, 2025, together with related orders in the underlying suit affecting the parent-child relationship. By its terms, the motion is ancillary to an original proceeding which has yet to be filed. Specifically, relator asserts that she is "presently preparing a detailed original Petition for Writ of Habeas Corpus and Mandamus," but maintains that "because the trial court's enforcement setting precedes the completion and filing of the habeas petition, immediate temporary relief is required to prevent unlawful incarceration and further denial of Petitioner's due process, preserve this Court's jurisdiction, and protect the minor child from ongoing emotional and psychological harm." We dismiss the motion for want of jurisdiction. Rule 52.10 of the Texas Rules of Appellate Procedure provides that the reviewing court in an original proceeding "may without notice grant any just relief pending the court's action on the petition." Tex. R. App. Proc. 52.10(b). As our peer courts have held, implicit within the rule is the necessity for a petition to be filed before the appellate court can grant emergency relief. In re Terminix Intern., Co., 131 S.W.3d 651, 653 (Tex. App.—Corpus Christi–Edinburg 2004, no pet.) (citing In re Kelleher, 999 S.W.2d 51, 52 (Tex. App.—Amarillo 1999, no pet.)). The rule allows the reviewing court to "address the dispute encompassed within a petition for mandamus ... by maintaining the status quo until it can address that dispute." Id.; see also In re Reed, 901 S.W.2d 604, 609 (Tex. App.—San Antonio 1995, orig. proceeding)). Unless or until a petition is filed, there is no dispute before the Court and we therefore lack the power to act under the rule. Id. Because Nonamé has not commenced an original proceeding, we lack jurisdiction to grant the motion for temporary relief. Accordingly, we dismiss the motion for want of jurisdiction but without prejudice to refiling following commencement of an original proceeding.

Rosa Lopez Theofanis, Justice Before
Justices Triana, Kelly, and Theofanis Filed: December 5, 2025 2