

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

In re Carlos I. Uresti, Relator

No. 04-11-00196-CV (Tex. App.—San Antonio Mar. 23, 2011) · No. No. 04-11-00196-CV · Decided March 23, 2011

SUMMARY

The Texas Fourth Court of Appeals denied without prejudice Carlos I. Uresti’s petition for writ of mandamus and request for emergency relief. The court held that the petition failed to comply with multiple Texas Rule of Appellate Procedure 52 requirements, including the requirements concerning argument, supporting documents, the record, and separate emergency-relief motions.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Per curiam; Sandee Bryan Marion; Steven C. Hilbig; Marialyn Barnard
JURISDICTION	Texas
DECIDED	March 23, 2011
DOCKET	No. 04-11-00196-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original mandamus proceeding challenging the denial of a motion for legislative continuance and seeking emergency relief.
STANDARD OF REVIEW	Mandamus relief requires the relator to show that the trial court abused its discretion and that the relator lacks an adequate remedy by appeal; the court could not determine abuse of discretion because the petition and record were deficient.
PRECEDENTIAL VALUE	Memorandum opinion; precedential status is not stated in the opinion text.
PARTIES	Carlos I. Uresti, Relator

TOPICS

- writ of certiorari
- appellate procedure
- family law procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petition for writ of mandamus satisfied the Texas Rules of Appellate Procedure.
2. Whether the court could determine that the trial court abused its discretion in denying the motion for legislative continuance.
3. Whether relator was entitled to emergency relief.

HOLDINGS

1. The petition did not satisfy the requirements of Texas Rule of Appellate Procedure 52, including the requirements for the petition's contents, a clear and concise abuse-of-discretion argument, and the required appendix or record.
2. The court could not determine whether the trial court abused its discretion in denying the motion for legislative continuance because of the deficiencies in the mandamus petition and supporting record.
3. Emergency relief was denied because the request was not filed in a separate motion as required by Rule 52.10, and the underlying mandamus petition was procedurally deficient.

KEY QUOTATIONS

“Due to the deficiencies in the petition for writ of mandamus filed in this court, we are unable to determine whether the trial court abused its discretion in denying the motion for legislative continuance.” (2)

“Accordingly, the petition for writ of mandamus and any emergency relief sought are DENIED WITHOUT PREJUDICE.” (2)

FACTUAL BACKGROUND

Carlos I. Uresti sought a legislative continuance in an underlying family-law proceeding. After the trial court denied the motion, he filed a petition for writ of mandamus and a request for emergency relief. The petition omitted required information, lacked a clear and concise argument that the trial court abused its discretion, failed to include material documents and a record, and did not present the emergency request in a separate motion.

PROCEDURAL HISTORY

Relator filed a petition for writ of mandamus and a request for emergency relief in the court of appeals after a trial court denied his motion for legislative continuance. The court of appeals denied both requests without prejudice because the petition failed to comply with multiple Texas Rules of Appellate Procedure requirements and lacked the necessary record to determine whether the trial court abused its discretion.

DISPOSITION

writ_denied

