

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

In the Interest of V.I.P.M., a Child

In re V.I.P.M. · No. 05-19-00197-CV · Decided May 1, 2019

SUMMARY

This document is an appellant’s request to the Texas Fifth Court of Appeals for a reporter’s record and supplemental clerk’s record in an appeal concerning a child-custody matter. The request identifies specific hearings and trial-court documents sought and includes a certificate of service dated April 23, 2019.

CASE DETAILS

COURT	Court of Appeals for the Fifth District of Texas at Dallas
JURISDICTION	Texas
DECIDED	May 1, 2019
DOCKET	05-19-00197-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellant Bradley B. Miller filed a request in the pending appeal for the reporter's record and a supplemental clerk's record from the 330th Family District Court.
PRECEDENTIAL VALUE	unknown
PARTIES	Bradley B. Miller v. Virginia Talley Dunn

TOPICS

- appellate procedure
- family law procedure
- civil procedure

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

- Whether the appellate court should direct the trial-court reporter to prepare and file the requested reporter's record and exhibits.
- Whether the appellate court should direct the trial court to prepare and file a supplemental clerk's record containing the documents identified by the appellant.

FACTUAL BACKGROUND

The underlying matter involved family-law proceedings concerning a child, including custody modification and enforcement-related hearings. Miller identified numerous hearings and documents that he contended were relevant to the appeal, including proceedings involving temporary orders, special appearances, de novo hearings, recusal, and a trial. He asserted that the trial-court reporter had not filed the requested reporter's record and that certain documents were missing from the clerk's record.

PROCEDURAL HISTORY

The appeal arose from proceedings in the 330th Family District Court of Dallas County, including custody-related proceedings and an enforcement action. Miller stated that the trial court filed the clerk's record on February 25, 2019, but that the reporter's record had not yet been filed. He requested that the appellate court instruct the trial-court reporter and trial court to provide specified hearing transcripts, exhibits, and supplemental clerk's-record documents.

DISPOSITION

other

OPINION

PER CURIAM.

ACCEPTED 05-19-00197-cv FIFTH COURT OF APPEALS DALLAS, TEXAS 4/23/2019 4:42 PM LISA MATZ CLERK 05-19-00197-CV No. _____ 05-19-00197-CV _____ FILED IN 5th COURT OF APPEALS DALLAS, TEXAS IN THE COURT OF APPEALS, 04/23/2019 4:42:00 PM FIFTH DISTRICT OF TEXAS LISA MATZ DALLAS Clerk _____ IN THE INTEREST OF V.I.P.M., A CHILD APPELLANT'S REQUEST FOR REPORTER'S RECORD AND SUPPLEMENTAL CLERK'S RECORD TO THE HONORABLE JUSTICES OF THE FIFTH COURT OF APPEALS: Appellant BRADLEY B. MILLER, appearing before the Court on his own behalf, files this Request pursuant to TEX. R. APP. § R. 34.5 and 35.6.

I. Reporter's Record Appellant Miller requested the Reporter's Record from the court reporter of the 330th Family District Court in writing (via email) on February 12, 2019. Appellant now further clarifies that he requires the trial-court Reporter's Record for relevant hearings that took place on the following dates: APPELLANT'S REQUEST FOR REPORTER'S / CLERK'S RECORD - PAGE 1 11/17/2016 (Required to demonstrate pattern of 28 U.S. Code § 1446 violations.)

11/20/2017 1/29/2018 2/19/2018 (if any) 3/27/2018 (Recusal hearing before Judge Kent Sims) 6/7/2018 7/16/2018 (including conference and ruling on de novo hearing) 8/6/2018 (including ruling on de novo hearing) 8/8/2018 8/21/2018 (including ruling denying de novo hearing setting) 10/22/2018 (i.e. trial) 1/14/2019 Appellant also requests that the trial-court court reporter provide all exhibits that were offered into evidence at the hearings listed above.

Appellant also requests that the trial-court court reporter provide the Reporter's Record from any other hearings that the trial court finds relevant to the enforcement action that is the subject of this appeal, and any exhibits from such hearings. Appellant has previously provided the above list of relevant hearings to the court reporter of the 330th Family District Court via email on April 19, 2019.

The trial-court court reporter has not yet filed the Reporter's Record. II. Supplemental Clerk's Record The trial court filed the Clerk's Record on February 25, 2019. Appellant Miller now requests that the trial court provide a supplemental Clerk's Record APPELLANT'S REQUEST FOR REPORTER'S / CLERK'S RECORD - PAGE 2 containing the following relevant documents: 11/15/2016 Objections (to Entry of proposed Order) 11/17/2016 Notice of Case Removal to the U.S. District Court 11/17/2016 Notice of Petition and Verified petition for Warrant of Removal 11/17/2016 Final Order (in custody modification case, signed by Judge Andrea Plumlee) 11/21/2017 (Citation, AND signed return of service dated 12/14/2017) 06/07/2018 Notice of Case Removal to the U.S. District Court 06/07/2018 Temporary Order 06/12/2018 Emergency Special Appearance 06/12/2018 Notice of Appeal of AJ (Request for De Novo Hearing on Temporary Orders) 06/18/2018 Associate Judge's Report 06/19/2018 Notice of Appeal of AJ (Request for De Novo Hearing on Special Appearance) 07/10/2018 Correspondence - Judgment Attached 08/08/2018 Order Appointing Attorney *08/24/2018 Respondent's Objection to Entry of Proposed "Order Denying Respondent's Request for De Novo Hearing On Temporary Orders" [*Note: This document was filed, and Appellant has a file-stamped copy, but the filing is missing from the docket sheet in the trial-court case.]

Appellant has previously provided the above list of relevant documents to the court reporter of the 330th Family District Court via email on March 8, 2019 and April 19, 2019. Appellant asserts that the above-listed items are necessary for the purposes of the instant appeal. APPELLANT'S REQUEST FOR REPORTER'S / CLERK'S RECORD - PAGE 3 PRAYER: Appellant Miller prays that the Court instruct the court reporter of the 330th Family District Court to provide the Reporter's Record and supplemental Clerk's Record as requested.

Respectfully submitted, /s/ Bradley B. Miller Bradley B. Miller Party Pro Se 5701 Trail Meadow Dr. Dallas, Texas 75230 (214) 923-9165 Telephone tech@bbmcs.com APPELLANT'S REQUEST FOR REPORTER'S / CLERK'S RECORD - PAGE 4 CERTIFICATE OF SERVICE I certify that on April 23, 2019, the foregoing document was served via the Court's electronic filing manager

upon Respondents and upon counsel for real parties in interest in compliance with the Texas Rules of Appellate Procedure Section 9.5 (b) (1).

Via E-file (Assistant Texas Attorney General) Rande Herrell (Bar Card # 09529400 csd-appeals@texasattorneygeneral.gov (Counsel for Appellee Virginia Talley Dunn) Patricia Rochelle (Bar Card # 13732050) prochelle@romclaw.com David Findley (Bar Card # 24040901) dfindley@bsdslaw.com Dated this 23rd day of April, 2019. /s/ Bradley B. Miller Bradley B. Miller Party Pro Se APPELLANT'S REQUEST FOR REPORTER'S / CLERK'S RECORD - PAGE 5