

COURT OF APPEALS OF THE EIGHTH DISTRICT OF TEXAS, EL PASO

In re Arrow Freight Management, Inc.

In re Arrow Freight · No. 08-11-00271-CV · Decided September 28, 2011

SUMMARY

The Eighth District Court of Appeals of Texas denied Arrow Freight Management, Inc.'s petition for a writ of mandamus seeking to overturn an order denying its motion to compel arbitration under the Federal Arbitration Act. The court held that the relator had an adequate remedy by interlocutory appeal and also denied its motion to stay.

CASE DETAILS

COURT	Court of Appeals of the Eighth District of Texas, El Paso
WRITING FOR THE COURT	Chief Justice Chew; Justice Ann Crawford McClure; Justice Rivera
JURISDICTION	Texas
DECIDED	September 28, 2011
DOCKET	08-11-00271-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Relator sought mandamus relief from an order denying its motion to compel arbitration under the Federal Arbitration Act and also sought a stay.
STANDARD OF REVIEW	Mandamus relief requires a clear abuse of discretion by the trial court and the absence of an adequate remedy by appeal.
PRECEDENTIAL VALUE	Published opinion; memorandum opinion
PARTIES	Arrow Freight Management, Inc.

TOPICS

- arbitration
- interlocutory appeal
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- commercial litigation
- contracts

QUESTIONS PRESENTED

1. Whether mandamus relief was available to challenge the denial of a motion to compel arbitration under the Federal Arbitration Act when an interlocutory appeal was available.
2. Whether relator's motion to stay should be granted.

HOLDINGS

1. Mandamus relief was unavailable because relator had an adequate remedy by interlocutory appeal from the order denying its motion to compel arbitration under the Federal Arbitration Act.
2. The motion to stay was denied.

KEY QUOTATIONS

“Because Relator has an adequate remedy by appeal, the petition for a writ of mandamus is denied.”

FACTUAL BACKGROUND

The trial court denied Arrow Freight Management, Inc.'s motion to compel arbitration under the Federal Arbitration Act. Arrow Freight sought mandamus relief to overturn that order and separately requested a stay. The appellate court determined that an interlocutory appeal was available from the denial of the motion to compel arbitration.

PROCEDURAL HISTORY

Arrow Freight Management, Inc. filed an original mandamus proceeding challenging the trial court's denial of its motion to compel arbitration. The court of appeals concluded that an interlocutory appeal was available from the denial under the Federal Arbitration Act and Texas Civil Practice and Remedies Code section 51.016, giving relator an adequate remedy by appeal. The court denied the petition for writ of mandamus and the motion to stay.

DISPOSITION

writ_denied

CASES CITED

- In re Prudential Ins. Co. of America, 148 S.W.3d 124, 135-36 (Tex. 2004)
- In re Merrill Lynch & Co., Inc., 315 S.W.3d 888, 891 n.3 (Tex. 2010) (orig. proceeding)
- In re H.D. Vest, Inc., 334 S.W.3d 333, 334 (Tex. App.—El Paso 2010, orig. proceeding)

OPINION

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS § IN RE: ARROW FREIGHT § No. 08-11-00271-CV MANAGEMENT, INC., § AN ORIGINAL PROCEEDING Relator. § IN MANDAMUS MEMORANDUM OPINION ON PETITION FOR WRIT OF

MANDAMUS Relator seeks a writ of mandamus to overturn an order denying its motion to compel arbitration pursuant to the Federal Arbitration Act (FAA).

A writ of mandamus will issue only if the trial court clearly abused its discretion and if the relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of America*, 148 S.W.3d 124, 135-36 (Tex. 2004). A party may take an interlocutory appeal from an order denying a motion to compel arbitration under the FAA. See TEX.CIV.PRAC.& REM.CODE ANN. § 51.016 (West Supp. 2010); *In re Merrill Lynch & Co., Inc.*, 315 S.W.3d 888, 891 n.3 (Tex.

2010)(orig. proceeding). Because Relator has an adequate remedy by appeal, the petition for a writ of mandamus is denied. See *In re H.D. Vest, Inc.*, 334 S.W.3d 333, 334 (Tex.App.--El Paso 2010, orig. proceeding). Relator's motion to stay is likewise denied. September 28, 2011 ANN CRAWFORD McCLURE, Justice Before Chew, C.J., McClure, and Rivera, JJ. Chew, C.J., not participating