

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

In the Estate of Emily D. Prieto, Deceased

No. 04-22-00038-CV · No. 04-22-00038-CV · Decided January 10, 2023

SUMMARY

The Fourth Court of Appeals in San Antonio orders the Webb County trial court clerk to supplement the appellate record with specified probate documents under Texas Rule of Appellate Procedure 34.5(c). The court also grants an extension of time for appellee to file a responsive brief.

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas January 10, 2023 No. 04-22-00038-CV IN THE ESTATE OF EMILY D. PRIETO, Deceased, From the County Court At Law No 1, Webb County, Texas Trial Court No. 2008-PB7-000086L1 Honorable Hugo Martinez, Judge Presiding ORDER Appellee's brief is currently due on January 17, 2023.

On January 3, 2023, appellee filed a "Notice of Incomplete Clerk's Record, Request to Clerk to Supplement Record, and Unopposed Request for Small Extension of Time to File Responsive Brief," maintaining the clerk's record is incomplete and requesting an extension of time to file his brief. Specifically, appellee states the clerk's record is missing complete copies of the following documents: 1.

Application for Probate of Will Produced in Court and For Issuance of Letters Testamentary, including the Will, Death Certificate, and Fiat, filed on September 16, 2008, and 2. Probate a Will, including Proof of Death and Other Facts and Order Probating Will, filed on September 29, 2008. Appellee further maintains the clerk's record is missing the following documents: 1.

Complaint; Letter/Testamentary filed on September 21, 2008 and 2. Inventory filed on May 21, 2009. Under Texas Rule of Appellate Procedure 34.5(c), if a relevant item has been omitted from the clerk's record, the appellate court may direct the trial court clerk to prepare, certify, and file a supplemental record containing the omitted items. See TEX. R. APP.

P. 34.5(c). Accordingly, we order the trial court clerk to file complete copies of the above-listed documents by January 25, 2023. We further grant appellee's request for an extension of time and order appellee to file her brief by February 9, 2023. _____ Luz

Elena D. Chapa, Justice IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 10th day of January, 2023.

MICHAEL A. CRUZ, Clerk of Court

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