

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

In re Robert Belt

No. 03-08-00381-CV · No. No. 03-08-00381-CV · Decided June 27, 2008

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-08-00381-CV In re Robert Belt ORIGINAL PROCEEDING FROM TRAVIS COUNTY MEMORANDUM OPINION Relator has filed a petition for writ of mandamus, complaining of the trial court's granting of the real party in interest's motion for new trial. See Tex. R. App. P. 52.8.

Because the order granting a new trial was signed within 105 days of the date the judgment was signed, the order was signed within the time of the trial court's plenary power and is not void. See In re Nguyen, 155 S.W.3d 191, 193 (Tex. App.—Tyler 2003, orig. proceeding); In re A.N., 126 S.W.3d 320, 323 (Tex. App.—Amarillo 2004, pet. denied); Harris County Hosp.

Dist. v. Estrada, 831 S.W.2d 876, 879 (Tex. App.—Houston [1st Dist.] 1992, no writ). Mandamus will not lie from an order granting a motion for new trial unless the order is void. See In re Dickason, 987 S.W.2d 570, 570-71 (Tex. 1998); In re Attorney General, 195 S.W.3d 264, 269 (Tex. App.—San Antonio 2006, orig. proceeding); see also In re Taylor, 113 S.W.3d 385, 393 (Tex.

App.—Houston [1st Dist.] 2003, orig. proceeding). We deny the petition for writ of mandamus.

____ David Puryear, Justice Before Chief Justice
Law, Justices Puryear and Pemberton Filed: June 27, 2008 2