



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

	§	No. 08-14-00270-CV
	§	
IN RE: LINDA S. RESTREPO AND	§	AN ORIGINAL PROCEEDING
CARLOS E. RESTREPO,	§	
	§	ON PETITION FOR
Relators.	§	WRIT OF PROHIBITION
	§	

MEMORANDUM OPINION

Relators, Linda S. Restrepo and Carlos E. Restrepo, have filed a petition for writ of prohibition against the Honorable Carlos Villa, Judge of the County Court at Law No. 5 of El Paso County, Texas. Relators have also filed a motion to stay the proceedings in the trial court. The petition for writ of prohibition and the motion to stay are dismissed for lack of jurisdiction.

A writ of prohibition operates like an injunction issued by a superior court to control, limit, or prevent action in a court of inferior jurisdiction. *Holloway v. Fifth Court of Appeals*, 767 S.W.2d 680, 682 (Tex. 1989); *In re Cap Rock Energy Corporation*, 225 S.W.3d 160 (Tex.App.--El Paso 2005, original proceeding). The purpose of the writ is to enable a superior court to protect and enforce its jurisdiction and judgments. *Holloway*, 767 S.W.2d at 683; *Caprock*, 225 S.W.3d at 160. The writ is typically used to protect the subject matter of an appeal or to prohibit an unlawful interference with the enforcement of a superior court's orders and judgments. *Holloway*, 767 S.W.2d at 683. An appellate court does not have jurisdiction, absent

actual jurisdiction of a pending proceeding, to issue a writ of prohibition requiring that a trial court refrain from performing a future act. *See In re Nguyen*, 155 S.W.3d 191, 194 (Tex.App.--Tyler 2003, orig. proceeding); *Lesikar v. Anthony*, 750 S.W.2d 338 (Tex.App.--Houston [1st Dist.] 1988, orig. proceeding). The Restrepos have not established that issuance of the writ of prohibition is necessary to protect the subject matter of an appeal or to prohibit interference with enforcement of an order or judgment of this Court. Accordingly, we dismiss the petition and motion for emergency relief for lack of jurisdiction. *See* TEX.R.APP.P. 52.8(a), 52.10.

October 8, 2014

ANN CRAWFORD McCLURE, Chief Justice

Before McClure, C.J., Rodriguez, J., and Barajas, C.J., (Senior Judge)
(Barajas, C.J., Senior Judge, sitting by assignment, not participating)