



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: LINDA S. RESTREPO AND	§	No. 08-14-00292-CV
CARLOS E. RESTREPO,	§	ORIGINAL PROCEEDING
Relators.	§	ON PETITION FOR 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. We dismiss the petition for writ of prohibition and the motion to stay for lack of jurisdiction.

A writ of prohibition serves a limited purpose. *In re Lewis*, 223 S.W.3d 756, 761 (Tex.App.--Texarkana 2007, orig. proceeding). The purpose of a writ of prohibition is to enable a superior court to protect and enforce its jurisdiction and judgments. *Holloway v. Fifth Court of Appeals*, 767 S.W.2d 680, 683 (Tex. 1989); *In re Cap Rock Energy Corporation*, 225 S.W.3d 160 (Tex.App.--El Paso 2005, orig. proceeding). 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. In keeping with the limited purpose of the writ of prohibition, an appellate court's jurisdiction to issue the writ is likewise limited. A writ of prohibition is not an independent proceeding brought to prohibit an action, but

is an ancillary proceeding that is invoked in aid of an appellate court's jurisdiction that has otherwise been properly invoked. *See Tex. Employers' Ins. Ass'n v. Kirby*, 137 Tex. 106, 152 S.W.2d 1073, 1073 (1941). So, absent actual jurisdiction over a pending proceeding, an appellate court does not have jurisdiction to issue a writ of prohibition requiring a trial court to 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, 339 (Tex.App.--Houston [1st Dist.] 1988, orig. proceeding).

On the date Relators filed their petition and motion to stay, an appeal was pending in cause number 08-14-00288-CV, styled *Linda S. Restrepo and Carlos E. Restrepo d/b/a Collectively RDI Global Services and R&D International v. Alliance Riggers & Constructors, LTD*. By opinion and judgment issued this same date, we dismissed the appeal for want of jurisdiction. 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 to stay for lack of jurisdiction. *See* TEX.R.APP.P. 52.8(a), 52.10.

STEVEN L. HUGHES, Justice

November 7, 2014

Before McClure, C.J., Rodriguez, and Hughes, JJ.