

Opinion issued December 6, 2012



In The
Court of Appeals
For The
First District of Texas

NO. 01-12-00941-CV

IN RE MELISSA GIESEN, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION ON REHEARING

We originally issued our memorandum opinion in this appeal on November 9, 2012. Relator, Melissa Giesen, has filed a motion for rehearing. We deny the motion for rehearing, withdraw our previous memorandum opinion, and issue this memorandum opinion in its place.

Relator, Melissa Giesen, has filed a petition for writ of mandamus in this Court. *See* TEX. GOV'T CODE § 22.221 (Vernon 2004); *see also* TEX. R. APP. P. 52.1. The related action pending in the trial is a suit to modify the parent-child relationship.¹ In her mandamus petition, Giesen challenges the July 20, 2012 “Temporary Orders in Suit to Modify Parent-Child Relationship,” signed by Associate Judge Diane M. Guariglia. Giesen requests this Court to “grant this writ of mandamus directing Associate Judge Diane M. Guariglia to vacate the court’s temporary order dated July 20, 2012.”

We do not have mandamus jurisdiction over an associate judge.² *See* TEX. GOV'T CODE ANN. § 22.221(b) (providing for mandamus jurisdiction over a judge of a district court or a county court); *see also In re J.W.B.*, No. 14–12–00410–CV, 2012 WL 1695208, at *1 (Tex. App.—Houston [14th Dist.] May 15, 2012, orig. proceeding) (mem. op.); *In re Vats*, No. 01–11–00329–CV, 2011 WL 2112789, at *1 (Tex. App.—Houston [1st Dist.] May 23, 2011, orig. proceeding) (mem. op.).

¹ The underlying case is *In the Interest of [N.T.S., T.L.S. and W.W.S.], Children*, cause number 2010–78935, pending in the 245th District Court of Harris County, Texas.

² Giesen also identified the Honorable Roy Moore, presiding judge of the 245th District Court, as a respondent. On August 31, 2012, Giesen filed a motion for reconsideration of the July 20, 2012 temporary orders signed by the associate judge. On September 25, 2012, Judge Moore signed an order denying Giesen’s motion for reconsideration. Although she identifies Judge Moore as a respondent, Giesen limits her prayer for relief specifically to requesting this Court to order the associate judge to vacate the July 20, 2012 order. Giesen also offers no substantive argument in her mandamus petition regarding how Judge Moore abused his discretion in denying the motion for reconsideration.

Accordingly, we dismiss Giesen's petition for writ of mandamus for lack of jurisdiction.

PER CURIAM

Panel consists of Justices Jennings, Higley, and Sharp.