

Petition for Writ of Mandamus Denied and Memorandum Opinion filed October 28, 2010



In The

**Fourteenth Court of Appeals**

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NO. 14-10-00766-CV

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**IN RE LYDIA GONZALEZ, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS**

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**MEMORANDUM OPINION**

On August 16, 2010, relator, Lydia Gonzalez, filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann. §22.221 (West 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to compel the Honorable Bonnie Crane Hellums, presiding judge of the 247th District Court of Harris County, to (1) transfer the underlying case to the 312th District Court; and (2) vacate as void all orders signed by the 247th District Court that affect the August 15, 2008 order signed by the 312th District Court.

To be entitled to the extraordinary relief of a writ of mandamus, the relator must show that the trial court abused its discretion and there is no adequate remedy by appeal. *In re Laibe Corp.*, 307 S.W.3d 314, 316 (Tex. 2010) (orig. proceeding) (per curiam). A

trial court abuses its discretion if it reaches a decision so arbitrary and unreasonable as to constitute a clear and prejudicial error of law, or if it clearly fails to correctly analyze or apply the law. *In re Columbia Med. Ctr. of Las Colinas*, 306 S.W.3d 246, 248 (Tex. 2010) (orig. proceeding) (per curiam); *In re Cerberus Capital Mgmt., L.P.*, 164 S.W.3d 379, 382 (Tex. 2005) (orig. proceeding) (per curiam). When an order is void, the relator need not show that she does not have an adequate appellate remedy, and mandamus relief is appropriate. *In re Sw. Bell Tel. Co.*, 35 S.W.3d 602, 065 (Tex. 2000) (orig. proceeding) (per curiam).

The petition for writ of mandamus focuses on the interplay of the following suits:

- A suit affecting the parent-child relationship filed by relator in the 247th District Court in cause no. 2008-22043 on April 11, 2008. The suit was nonsuited on November 6, 2008. We refer to this as the “Nonsuited SAPCR.”
- A suit to establish the parent-child relationship filed by the Texas Attorney General in the 312th District Court in cause no. 2008-47496 on August 7, 2008. A final agreed child support review and paternity order was signed on August 15, 2008. We refer to this as the “Paternity Suit.”
- A petition for divorce filed by Agapito Gonzalez in the 247th District Court in cause no. 2010-08118 on February 8, 2010. We refer to this as the “Divorce Suit.”

Judge Hellums denied relator’s request to transfer the Divorce Suit from the 247th District Court to the 312th District Court. Instead, finding that Paternity Suit and the Divorce Suit “involve common questions of law and fact relating to the support of the same minor children,” Judge Hellums transferred the Paternity Suit from the 312th District Court to the 247th District Court and consolidated it into the Divorce Suit.

Relator contends that the 247th District Court abused its discretion by failing to transfer the Divorce Suit to the 312th District Court. According to relator, the 312th District Court is the court of continuing and exclusive jurisdiction because it issued a final child support review and paternity order in the Paternity Suit.

Relator's argument fails under section 155.201(a) of the Texas Family Code, entitled "Mandatory Transfer." Upon the filing of a motion showing that a suit for dissolution of the marriage has been filed in another court and requesting a transfer to that court, section 155.201(a) mandates that a court having continuing, exclusive jurisdiction of a SAPCR must transfer the SAPCR to the court in which the suit for dissolution of the marriage is pending. Tex. Fam. Code Ann. § 155.201(a) (West 2008); *see also* Tex. Fam. Code Ann. § 6.407(a) (West Supp. 2009) ("If a suit affecting the parent-child relationship is pending at the time the suit for dissolution of a marriage is filed, the suit affecting the parent-child relationship shall be transferred as provided by Section 103.002 to the court in which the suit for dissolution is filed.").

In light of sections 6.407(a) and 155.201(a), the 247th District Court was not required to transfer the Divorce Suit to the 312th District Court where the Paternity Suit was pending. To the contrary, the 312th District Court was required under sections 6.407(a) and 155.201(a) to transfer the Paternity Suit to the 247th District Court where the Divorce Suit is pending. Therefore, relator is not entitled to a writ of mandamus directing the 247th District Court to transfer the Divorce Suit to the 312th District Court.

There is no order from the 312th District Court transferring the Paternity Suit to the 247th District Court. Rather, the 247th District Court signed an order that transferred and consolidated the Paternity Suit into the Divorce Suit because of "common questions of fact and law relating to the support of the same minor children." Relator does not challenge the mechanism by which the transfer was accomplished, or the absence of a motion under section 155.201(a). Relator's mandamus is predicated on his contention that the 247th District Court is required to transfer the Divorce Suit to the 312th District

Court. As discussed above, relator's contention is erroneous under sections 6.407(a) and 155.201(a).<sup>1</sup>

A trial court does not abuse its discretion by taking a different path to the correct destination; we will uphold its order on any ground supported by the record. *In re Stanford Group Co.*, 273 S.W.3d 807, 813 (Tex. App.—Houston [14th Dist] 2008, orig. proceeding). Therefore, we will not disturb the 247th District Court's consolidation order. *See In re Aguilera*, 37 S.W.3d 43, 50 (Tex. App.—El Paso 2000, orig. proceeding) (“[W]hile the ‘consolidation’ may more appropriately have been termed a ‘transfer,’ we believe it accomplished the same purpose.”). Because the Paternity Suit properly belongs in the 247th District Court, we also reject relator's contention that the 247th District Court acted beyond its jurisdiction when it signed orders addressing the August 15, 2008 child support review and paternity order issued by the 312th District Court in the Paternity Suit.

Accordingly, we deny relator's petition for writ of mandamus. The emergency motion to stay proceedings is denied as moot.

PER CURIAM

Panel consists of Justices Seymore, Boyce, and Christopher.

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<sup>1</sup> In light of this disposition, we do not address the effect, if any, that the Nonsuited SAPCR had on the determination regarding the propriety of transferring the Paternity Suit to the 247th District Court.