

Petition for Writ of Mandamus Denied and Opinion filed October 20, 2016.



In The

Fourteenth Court of Appeals

NO. 14-16-00773-CV

IN RE JULIA AND WILLIAM POFF, Relators

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
506th Judicial District Court
Waller County, Texas
Trial Court Cause No. 16-04-23698**

MEMORANDUM OPINION

On September 28, 2016, relators Julia and William Poff 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, relators ask this court to compel the Honorable Albert M. McCaig, Jr., presiding judge of the 506th Judicial District Court of Waller County, to reinstate a default judgment that the trial court set

aside. Relators argue, for various reasons, that the trial court abused its discretion by setting aside the default judgment and not entering a new default judgment. There has been no jury trial.

“Mandamus review is not available for an order that sets aside a default judgment when there has been no jury trial.” *In re Diogu*, 14-16-00373-CV, 2016 WL 3131524, at *1 (Tex. App.—Houston [14th Dist.] June 2, 2016, orig. proceeding) (mem. op.) (citing *In re Cort*, No. 14-14-00646-CV, 2014 WL 4416074, at *2 (Tex. App.—Houston [14th Dist.] Sept. 9, 2014, orig. proceeding) (per curiam) (mem. op.); *In re Abrokwa*, No. 05-15-01239-CV, 2015 WL 6520083, at *1 (Tex. App.—Dallas Oct. 28, 2015, orig. proceeding) (mem. op.); and *In re Procesos Especializados en Metal, S.A. de C.V.*, No. 04-14-00543-CV, 2014 WL 4347724, at *3 (Tex. App.—San Antonio Sept. 3, 2014, orig. proceeding) (mem. op.)).

Accordingly, we deny relators’ petition for writ of mandamus.

PER CURIAM

Panel consists of Justices Busby, Donovan, and Brown.