

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00472-CV

IN RE RICHARD DON HALL

Original Proceeding

MEMORANDUM OPINION

Richard Don Hall seeks habeas or mandamus relief from a writ of *capias* issued by the trial court in a divorce case. The real party in interest, Chotsie Lea Hall, filed a motion for enforcement of temporary orders in the trial court. Hall failed to appear for a hearing on July 12, 2011, and the trial court issued *capias* and set bond at \$40,000 cash. Relator contends that the trial court abused its discretion by issuing a *capias* because relator did not receive adequate notice of the July 12 enforcement hearing. Relator also contends the bond is excessive because his business is in bankruptcy.

The violation of a temporary order in a divorce case is enforceable through contempt. *See* Tex. Fam. Code Ann. § 6.506 (West 2006). “Habeas relief may be granted

when the undisputed facts show that the trial court lacked grounds for issuance of a *capias*.” *In re Land*, No. 09-10-00360-CV, 2010 WL 3047013, *2 (Tex. App.—Beaumont Aug. 3, 2010, orig. proceeding). The parties dispute whether relator received notice of the hearing for which *capias* issued. “Upon the respondent’s arrest, the trial court must promptly conduct a hearing unless the respondent is released on bond upon [his] promise to appear as required by the court without the necessity for further personal service.” *Id.* at *1.

Relator has not shown that he is entitled to immediate release. *Id.* We deny the petition for writ of habeas corpus without reference to the merits. Relator has not shown that the trial court clearly abused its discretion by ordering relator to appear before the trial court. *Id.* We deny the petition for writ of mandamus.

PETITION DENIED.

PER CURIAM

Opinion Delivered August 25, 2011

Before Gaultney, Kreger, and Horton, JJ.