

NO. 07-07-0323-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
AUGUST 10, 2007

IN RE CHARLES MARK BERRY, JR., CO-INDEPENDENT
EXECUTOR, IN THE ESTATE OF CHARLES MARK BERRY, SR., DECEASED

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

ON PETITION FOR WRIT OF MANDAMUS

Relator Charles Mark Berry, Jr., acting as co-independent executor of the estate of Charles Mark Berry, Sr., seeks a writ of mandamus and prohibition to “vacate” the probate trial court’s scheduled hearing on an application to remove relator as an independent executor. Relator contemporaneously filed a motion for emergency relief seeking a stay of the hearing until the conclusion of this proceeding.

The real parties in interest, who also are co-independent executors of the estate, responded with a letter stating the scheduled hearing had been vacated and the trial court would not act on the application until resolution of a related pending appeal. Although no order vacating the setting has been provided, the trial court has confirmed the hearing has been “removed from its docket.” The controversy presented through relator’s petition therefore has been rendered moot. Accordingly, we have denied relator’s request for

emergency relief and now dismiss his petition for writ of mandamus and prohibition for want of jurisdiction. Tex. R. App. P. 42.3(a); *State Bar of Texas v. Gomez*, 891 S.W.2d 243, 245 (Tex. 1994) (courts have no jurisdiction over moot controversy).

Per Curiam