



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: § No. 08-22-00200-CR
THE STATE OF TEXAS, § AN ORIGINAL PROCEEDING
Relator. § IN MANDAMUS
§

MEMORANDUM OPINION

On October 11, 2022, Relator filed a “State’s Emergency Motion for a Stay of Trial Court Proceedings Pursuant to Tex. R. App. P. 52.10.” The State indicated in its stay motion that it would file a petition for writ of mandamus as soon as practicable but has not done so. On October 24, 2022, the State filed a motion requesting that we dismiss the previously filed stay motion.

An original proceeding must be commenced before an appellate court obtains jurisdiction to grant relief by motion under the Texas Rules of Appellate Procedure. *See In re Terminix Int’l, Co.*, 131 S.W.3d 651, 653 (Tex.App.—Corpus Christi 2004, orig. proceeding); *In re Ramirez*, 133 S.W.3d 664, 664–65 (Tex.App.—Corpus Christi 2003, orig. proceeding); *In re Kelleher*, 999 S.W.2d 51, 52 (Tex.App.—Amarillo 1999, orig. proceeding); *see also In re H.L.*, No. 03-15-00407-CV, 2015 WL 4448839, at *1 (Tex.App.—Austin July 14, 2015, orig.

proceeding)(mem.op.). Until an appropriate petition is filed, there is no dispute before this Court. *See In re Ramirez*, 133 S.W.3d at 664–65; *In re Kelleher*, 999 S.W.2d at 52.

Because Relator has not filed a petition for writ of mandamus, we conclude we have no jurisdiction to consider the motion to stay. Accordingly, this matter is dismissed for want of jurisdiction without prejudice to Relator’s right to reassert the motion after commencing an original proceeding pursuant to the appellate rules. All pending motions are denied as moot.

YVONNE T. RODRIGUEZ, Chief Justice

October 27, 2022

Before Rodriguez, C.J., Palafox, and Alley, JJ.