

Opinion filed October 22, 2020



In The
Eleventh Court of Appeals

Nos. 11-20-00135-CV, 11-20-00136-CV, & 11-20-00137-CV

IN RE BILLIE DEAN

Original Mandamus Proceedings

MEMORANDUM OPINION

Relator, Billie Dean, filed these three original petitions for writ of mandamus or writ of prohibition related to the proposed settlement of a wrongful death lawsuit on behalf of E.M.D. and C.D.D. by Real Party in Interest, Jennifer Payne, who has been appointed the guardian of the children. Relator has appealed the appointments of Real Party in Interest as the children's guardian in our Cause Nos. 11-20-00042-CV, *In re E.M.D.*, and 11-20-00043-CV, *In re C.D.D.*

In Cause Nos. 11-20-00135-CV and 11-20-00136-CV, Relator requests that we instruct the Honorable Christopher Clark, presiding judge of the County Court at Law No. 2 in Ector County, to dismiss applications to establish management trusts

for the settlement proceeds that were filed by Real Party in Interest in Cause Nos. G1297-CC and G1298-CCL2 and that we stay the county court at law proceedings to the extent that Real Party in Interest “seeks to settle the wrongful death lawsuit” pending final determination of the two appeals. In a supplemental petition for writ of mandamus, Relator also requests that we declare that orders entered by Judge Clark on June 30, 2020, are “void as a matter of law and of no effect.”

In our Cause No. 11-20-00137-CV, Relator requests that we instruct the Honorable W. Stacy Trotter, presiding judge of the 358th District Court, to vacate an order entered on May 18, 2020, in Cause No. B-20-03-0342-CV. In that order, Judge Trotter set a “friendly suit hearing” in the wrongful death litigation for May 28, 2020. Relator also requests that we stay all proceedings in Cause No. B-20-03-0342-CV pending final determination of the related appeals. Finally, in a supplemental petition for writ of mandamus, Relator requests that we order that Real Party in Interest lacks authority to commence new litigation while her appointments as guardian of E.M.D. and C.D.D. are on appeal.

On this same date, we have issued an opinion in which we resolved our Cause Nos. 11-20-00042-CV, *In re E.M.D.*, and 11-20-00043-CV, *In re C.D.D.* In that opinion, we held that Judge Clark’s June 30, 2020 orders are not void and that Judge Clark did not abuse his discretion when he appointed Real Party in Interest to be the guardian of the children. Therefore, Relator’s requests that we stay the proceedings in the county court at law and in the district court pending a final determination of the two appeals, that we declare Judge Clark’s June 30, 2020 orders to be void and of no effect, and that we order that Real Party in Interest does not have authority to commence new litigation while her appointments as guardian of the children are on appeal are moot. *See Heckman v. Williamson Cty.*, 369 S.W.3d 137, 162 (Tex. 2012) (“[A] case is moot when the court’s action on the merits cannot

affect the parties' rights or interests."); *In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (orig. proceeding) ("A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings."). Accordingly, we dismiss these original proceedings.

JOHN M. BAILEY
CHIEF JUSTICE

October 22, 2020

Panel consists of: Bailey, C.J.,
Stretcher, J., and Wright, S.C.J.¹

Willson, J., not participating.

¹Jim R. Wright, Senior Chief Justice (Retired), Court of Appeals, 11th District of Texas at Eastland, sitting by assignment.