

Dismissed and Opinion Filed September 1, 2016



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-16-00845-CV

TRACY NIXON, Appellant

V.

THE ATTORNEY GENERAL OF THE STATE OF TEXAS, Appellee

**On Appeal from the 301st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF-00-14691**

MEMORANDUM OPINION

**Before Chief Justice Wright and Justices Lang-Miers and Stoddart
Opinion by Chief Justice Wright**

In this appeal, appellant Tracy Nixon seeks review of the July 12, 2016 order denying his motion to recuse Judge Mary Brown. Also before the Court are Appellant's petition for writ of injunction and petition for writ of prohibition in which he seeks relief from enforcement of contempt orders entered against him and seeks to enjoin the trial court from hearing certain motions during the pendency of this appeal. We dismiss the appeal and the petitions for want of jurisdiction.

Denials of motions to recuse may not be reviewed on appeal until a final judgment has been entered. *See Lehman v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001); TEX. R. CIV. P. 18a(j)(1). By letter dated July 19, 2016, we advised appellant of the Court's concern that it lacks jurisdiction to review the denial of a motion to recuse before a final judgment has been entered

and directed appellant to file a letter brief demonstrating our jurisdiction over the appeal by July 29, 2016. Appellant did not respond to the Court's directive and points us to no final judgment. The trial court's contempt orders do not constitute a final judgment. *In re Union Pac. Resources Co.*, 969 S.W.2d 427, 428-29 (Tex. 1998) (orig. proceeding); *In re Office of Attorney Gen. of Tex.*, 215 S.W.3d 913, 916 (Tex. App.—Fort Worth 2007, no pet.). Because the contempt order here is not a final judgment and no other final judgment has been entered, the Court lacks jurisdiction to review the denial of the motion to recuse on direct appeal. *See, e.g., Williams v. Williams*, 05-10-00020-CV, 2010 WL 797283, at *1 (Tex. App.—Dallas Mar. 10, 2010, no pet.) (dismissing appeal of denial of motion to recuse where no final judgment had been entered and other order appeal granting motion to amend pleadings was not a final judgment); *see also In re B.J.H.-T.*, 12-11-00383-CV, 2013 WL 1687586, at *2 (Tex. App.—Tyler Apr. 17, 2013, no pet.) (dismissing appeal of contempt order and denial of motion to recuse because contempt order is not a final judgment).

Because we lack jurisdiction over this direct appeal, we also lack jurisdiction to consider appellant's petitions for writ of prohibition and for writ of injunction filed in relation to this proceeding. Further, this Court may issue a writ of prohibition in only limited circumstances, none of which are present here. *In re Bolton*, No. 05-10-01115-CV, 2010 WL 4011041, at *1 (Tex. App.—Dallas Oct. 14, 2010, orig. proceeding); *Humble Exploration Co., Inc. v. Walker*, 641 S.W.2d 941, 943 (Tex. App.—Dallas 1982, no writ). In addition, appellant provides no basis to stay any further proceedings in the trial court.

Having reviewed appellant's notice of appeal, petition for writ of prohibition, and petition for writ of injunction, we have determined that the Court lacks jurisdiction over this appeal and the petitions.

We, therefore, **DISMISS** the appeal and both petitions for want of jurisdiction.

/Carolyn Wright/

CAROLYN WRIGHT
CHIEF JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

TRACY NIXON, Appellant

No. 05-16-00845-CV V.

THE ATTORNEY GENERAL OF THE
STATE OF TEXAS, Appellee

On Appeal from the 301st Judicial District
Court, Dallas County, Texas

Trial Court Cause No. DF-00-14691.

Opinion delivered by Chief Justice Wright.

Justices Lang-Miers and Stoddart
participating.

In accordance with this Court's opinion of this date, the appeal and appellant's petitions for writ of prohibition and writ of injunction are **DISMISSED** for want of jurisdiction.

Judgment entered September 1, 2016.