

Opinion issued September 29, 2011



In The
Court of Appeals
For The
First District of Texas

NO. 01-11-00759-CV

IN RE AURORA M. ALONSO, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator Aurora M. Alonso filed a petition for writ of mandamus challenging the trial court's denial of her motion to set a hearing on her application for temporary guardianship of her mother, Aurora Ramos a/k/a Aurora Rodriguez.*

* The underlying case is *In the Interest of Aurora Ramos a.k.a. Aurora Rodriguez, An Adult*; Cause Number 405,531, in Probate Court No. 4 of Harris County, Texas, Honorable Christine Butts, presiding.

The petition for writ of mandamus is denied. Relator has the burden of providing a sufficient record to establish her right to mandamus relief. *See Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992). “Although mandamus is not an equitable remedy, its issuance is largely controlled by equitable principles.” *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 138 (Tex. 2004) (quoting *Rivercenter Assocs. v. Rivera*, 858 S.W.2d 366, 367 (Tex. 1993)).

Relator’s application in the trial court referenced only a specific hearing in connection with its allegation of imminent danger to the proposed ward. *See* TEX. PROB. CODE ANN. § 875(c)(2) (West Supp. 2010). The petition filed in this Court asserts that the imminent danger extended beyond the specific date identified in the application filed in the trial court, but the record does not demonstrate that Relator amended or refiled her application to include this allegation, nor does it demonstrate that Relator made this argument to the trial court in any other way. Relator’s failure to produce a record showing that she presented these arguments to the trial court thus precludes us from finding that the trial court committed a clear abuse of its discretion. *See, e.g., In re Jindal Saw Ltd.*, 264 S.W.3d 755, 767 (Tex. App.—Houston [1st Dist.] 2008, orig. proceeding).

PER CURIAM

Panel consists of Justices Keyes, Higley, and Massengale.