

Opinion issued December 15, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-15-00582-CV

IN RE TERR'L LA'YONNE MARK, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Terr'l La'Yonne Mark, filed a petition for writ of mandamus seeking to compel the original respondent, the Honorable Brenda Mullinix, to rule on his pending motion to transfer venue without a hearing of the underlying suit affecting the parent-child relationship from Fort Bend to Tarrant County.¹ This Court had

¹ The underlying case is *In the Interest of [T.M.], a Minor Child*, Cause No. 14-DCV-214998, pending in the 505th District Court of Fort Bend County, Texas, the Honorable David S. Perwin presiding.

abated this original proceeding and lifted this Court's prior stay to allow the new respondent, the Honorable David S. Perwin, to rule on relator's pending motion. *See* TEX. R. APP. P. 7.2(b).

On December 2, 2016, relator filed a "Notice of Nonsuit" in this Court, which we construe as a motion to dismiss. *See* TEX. R. APP. P. 42.1(a)(1). Relator explains that the parties have settled the transfer issue in the trial court, the sole subject of this petition, which renders this case moot. Although there is no certificate of conference with relator's motion, it contains a certificate of service on counsel for the real parties in interest and has been on file with this Court for more than ten days with no response. *See* TEX. R. APP. P. 10.1(a)(5), 10.3(a)(2).

Accordingly, we withdraw the abatement order, issued on November 8, 2016, reinstate this case, construe relator's notice of nonsuit as a motion to dismiss, grant the motion, and dismiss the petition for writ of mandamus as moot.

PER CURIAM

Panel consists of Justices Keyes, Higley, and Lloyd.