

Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed November 30, 2017.



In The
Fourteenth Court of Appeals

NO. 14-17-00915-CV

IN RE AMANDA LYNN SHAW, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
308th District Court
Harris County, Texas
Trial Court Cause No. 2016-63844**

MEMORANDUM OPINION

On November 20, 2017, relator Amanda Lynn Shaw filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221 (West Supp. 2017); *see also* Tex. R. App. P. 52. In the petition, relator asks this court to compel the Honorable Michael Sydow, Jr., associate judge of the 308th District Court of Harris

County, to set aside his October 16, 2017 interim orders pending resumption of the emergency temporary orders hearing.

Relator previously filed a petition for writ of mandamus on November 2, 2017, seeking the same relief. *See In re Shaw*, No. 14-17-00871-CV, No. 2017 WL 5505727, at *1 (Tex. App.—Houston [14th Dist.] Nov. 16, 2017, orig. proceeding) (mem. op.). We dismissed relator’s first petition for lack of jurisdiction over the associate judge. *See id.*

Effective September 1, 2017, the Texas Legislature amended Section 22.221 of the Government Code to include in the mandamus jurisdiction of the court of appeals associate judges who are appointed by a district or county court judge under Chapter 201 of the Texas Family Code in the court of appeals district for the judge who appointed the district judge. *Id.* (citing Tex. Gov’t Code Ann. § 22.221(b)(3)). However, the amendment applies only to “a suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, on or after the effective date of this Act.” *Id.* (quoting Act of June 15, 2017, 85th Leg., R.S., ch. 1013, § 2(b), 2017 Tex. Sess. Law Serv. 4051). The underlying suit was filed on September 16, 2016, before the September 1, 2017 effective date of the amendment and, therefore, the amendment does not apply to this proceeding. *See* Act of June 15, 2017, 85th Leg., R.S., ch. 1013, § 2(b), 2017 Tex. Sess. Law Serv. 4051 (“A suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.”).

Relator argues that this court has jurisdiction because the associate judge's order became the order of the court by operation of law without the need for it to be ratified by the referring court. A party's failure to request a de novo hearing or the waiver of a request for a de novo hearing before the referring court does not deprive the party of the right to appeal to or request relief from the court of appeals or the supreme court. *See Tex. Fam. Code Ann. § 201.016(a)* (West Supp. 2017). However, Section 22.221 of the Government Code specifically provides the courts of appeals' jurisdiction in mandamus proceedings. The courts of appeals do not have mandamus jurisdiction over associate judges in suits filed in the trial court prior to September 1, 2017. *See Shaw*, 2017 WL 5505727, at *1. Because the underlying suit was filed before the effective date of the amendment, we do not have jurisdiction over the associate judge in this mandamus proceeding.

Accordingly, we dismiss relator's petition for writ of mandamus for lack of jurisdiction.

PER CURIAM

Panel consists of Justices Boyce, Jamison, and Donovan.