



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-14-00501-CV

IN RE David GOAD

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Sandee Bryan Marion, Justice
Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: August 13, 2014

MOTION DISMISSED FOR LACK OF JURISDICTION

On July 18, 2014, David Goad filed a pro se motion seeking an emergency stay of proceedings pending in Justice Court No. 2, Guadalupe County, Texas, pursuant to Rule 52.10 of the Texas Rules of Appellate Procedure. Although the motion recites that a petition for writ of mandamus, writ of injunction or writ of prohibition would be filed by relator, Goad has not filed a petition.² Rule 52.10 allows a relator to seek temporary relief “pending the court’s action” on a petition. TEX. R. APP. P. 52.10. Implicit in Rule 52.10 is the necessity for a petition to be filed before this court can consider any grant of temporary relief. *See id.* At this time, there is no

¹ This proceeding arises out of Cause No. JSC2-1000, styled *David Goad v. George R. Wyatt*, pending in the Justice Court, Precinct Two, Guadalupe County, Texas, the Honorable Sheryl Sachtleben presiding.

² It should be noted that this court does not have authority to issue a writ against a justice of the peace. *See* TEX. GOV'T CODE ANN. § 22.221(a)-(b) (West 2004); *see also In re Barrera*, No. 04-14-00464-CV, 2014 WL 3014696, at *1 (Tex. App.—San Antonio July 2, 2014, orig. proceeding) (dismissing petition seeking mandamus relief against justice of the peace for lack of jurisdiction).

controversy before this court. Accordingly, Goad's motion for emergency stay is dismissed for lack of jurisdiction.

PER CURIAM