



Fourth Court of Appeals San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00556-CV

ESTATE OF Adan J. DOMINGUEZ

From the Probate Court No. 2, Bexar County, Texas
Trial Court No. 2015PC2096
Honorable Tom Rickhoff, Judge Presiding

PER CURIAM

Sitting: Karen Angelini, Justice
 Marialyn Barnard, Justice
 Patricia O. Alvarez, Justice

Delivered and Filed: June 21, 2017

DISMISSED FOR WANT OF PROSECUTION

On August 23, 2016, Appellant Veronica Dominguez Evans filed a notice of appeal, stating that she intended to appeal from the trial court's order dismissing her will contest. Her brief was originally due February 17, 2017. On February 17, 2017, Evans filed a motion for extension of time to file her brief. Her motion was granted, and her brief was due March 20, 2017. On March 4, 2017, Evans filed a Motion for Judicial Notice and Request for Permission to Obtain General Certification of Judicial Notice Records (and later an amended motion), requesting that this Court take judicial notice of filings in 54 other estates "whose respective wills, like that of Adan J. Dominguez's, were probated on June 29, 2015." This Court denied her motion, but granted Evans another extension of time to file her appellant's brief. Appellant's brief was due on April 28, 2017.

Instead of filing her brief, on May 1, 2017, Evans filed a letter stating that she could not complete her brief without referring to the documents of which she requested this Court take judicial notice. On May 15, 2017, Appellee filed a motion to dismiss this appeal for lack of prosecution because Evans had not timely filed her appellant's brief. On May 17, 2017, Evans filed a response, again complaining about this Court's refusal to take judicial notice of documents from other court proceedings. On May 22, 2017, this Court denied appellee's motion to dismiss, but ordered Evans to file her Appellant's brief on or before June 1, 2017. This Court stated that if Evans failed to file her brief by June 1, 2017, this appeal would be dismissed for want of prosecution. *See* TEX. R. APP. P. 38.8(a); *see also* TEX. R. APP. P. 42.3(c).

On June 1, 2017, Evans filed an "Emergency Motion Requesting that Movant's Appeal be Changed and Considered as a Mandamus." However, Evans did not file any document that could be construed as a petition for writ of mandamus with her motion, stating that she was preparing such a document. Because Evans has not presented anything for mandamus review, we deny her motion without prejudice to her filing a proper petition for writ of mandamus.

Finally, on June 12, 2017, Appellee filed a "Renewed Motion for Dismissal of Appeal and Request for Sanctions." Appellee again argues Evans's appeal should be dismissed because Evans has failed to file a brief in a timely manner. Because Evans has not timely filed her appellant's brief, we grant Appellee's motion to dismiss. Evans's appeal is dismissed for want of prosecution. Appellee's motion for sanctions is denied.

PER CURIAM