

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-17-00346-CV

IN RE LUIS FRANCISCO AND ELSA FRANCISCO-SOTO

Original Proceeding
418th District Court of Montgomery County, Texas
Trial Cause No. 17-03-03917

MEMORANDUM OPINION

Luis Francisco and Elsa Francisco-Soto filed a mandamus petition and a motion to stay all orders of the trial court pending our resolution of their claim that they presented a timely objection to the visiting judge assigned to hear the case. Relators objected to the assignment after the assigned judge conducted hearings in the case, the judge's previous assignment expired, and a new assignment issued. They argue the objection is timely because it was made within seven days of the date the new assignment issued and before the first hearing under the new assignment.

“An objection [to a judge assigned to a trial court] under this section must be filed not later than the seventh day after the date the party receives actual notice of the assignment or before the date the first hearing or trial, including pretrial hearings, commences, *whichever date occurs earlier.*” Tex. Gov’t Code Ann. § 74.053(c) (West 2013) (emphasis added). An objection is late if it is made after the assigned judge makes any ruling in the case. *In re Canales*, 52 S.W.3d 698, 704 (Tex. 2001) (orig. proceeding). “The statute does not confer a new opportunity to object when a visiting judge who has already heard matters in the case is reassigned by a new assignment order.” *Id.*

The relators have not shown that they made a timely objection to the visiting judge’s assignment. We deny the petition for a writ of mandamus and the motion for temporary relief. *See* Tex. R. App. P. 52.8(a).

PETITION DENIED.

PER CURIAM

Submitted on September 18, 2017
Opinion Delivered September 18, 2017

Before Kreger, Horton, and Johnson, JJ.