

NO. 07-11-0398-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
NOVEMBER 9, 2011

In re: LUIS S. LAGAITE, JR.,

Relator

On Original Proceeding for Writ of Mandamus

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Pending before the court is the application of Luis S. Lagaite, Jr., for a writ of mandamus. He asks us to order the Honorable Ana Estevez, 251st District Court, to schedule a hearing and act upon various motions pending in a suit he initiated. The motions include "Motion Requesting Assistance of Counsel [Exhibit A]," "Motion for Hearing on the Merits of the Case[Exhibit B]," "Bench Warrant [Exhibit C]," "Writ of Habeas Corpus Ad Testificandum [Exhibit D]," and various other pleadings attacking the finding by the trial court that appellant is a vexatious litigant. We dismiss the petition as moot.

On October 26, 2011, we directed Judge Estevez to respond to relator's petition for mandamus. On November 4, 2011, Judge Estevez filed her response wherein she attached copies of the following orders: 1) order denying appointment of counsel, 2) order denying bench warrant, and 3) order setting aside September 13, 2011 order

wherein the relator was found to be a vexatious litigant and setting the matter for hearing on January 4, 2012. A copy of the documents evincing the actions are attached to this opinion as Exhibit A.

Accordingly, we do not reach the merits of the issues raised, and the petition for writ of mandamus is dismissed as moot. *See In re Duncan*, 62 S.W.3d 333, 334 (Tex. App.–Houston [1st Dist.] 2001, orig. proceeding).

Per Curiam

Cause No. 97,061-C

LUIS S. LAGATTE, JR., #782508
Plaintiff,

v.

GREGORY C. BOLAND, ET. AL.,
Defendants,

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IN THE 251ST DISTRICT COURT

IN AND FOR

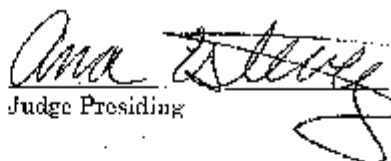
POTTER COUNTY, TEXAS

ORDER DENYING APPOINTMENT OF COUNSEL

On this day, the Court considered Plaintiff's Motion Requesting Assistance of Counsel. Without the necessity of a hearing, upon examination of the pleadings, the Court finds that the Plaintiff is not entitled to the relief he requests.

IT IS THEREFORE ORDERED that Plaintiff's Motion Requesting Assistance of Counsel is DENIED.

SIGNED this 4th day of November, 2011.


Judge Presiding

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CLERK OF DISTRICT COURT
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POTTER COUNTY TEXAS
BY _____ DEPUTY

Cause No. 97,061-0

LUIS S. LACAITE, JR., #762508
Plaintiff,

v.

GREGORY C. BOLAND, ET. AL.,
Defendants.

FILED FOR RECORD IN CASE NO. 97,061-0

IN THE 251ST DISTRICT COURT

IN AND FOR

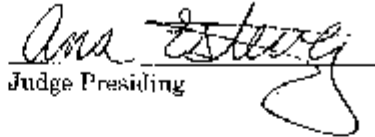
POTTER COUNTY, TEXAS

ORDER DENYING BENCH WARRANT

On this day, the Court considered Plaintiff's Motion Requesting a Bench Warrant. Without the necessity of a hearing, upon examination of the pleadings, the Court finds that the Plaintiff is not entitled to the relief he requests.

IT IS THEREFORE ORDERED that Plaintiff's Motion Requesting a Bench Warrant is DENIED.

SIGNED this 4th day of November, 2011.


Judge Presiding

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POTTER COUNTY, TEXAS
BY _____ DEPUTY

Cause No. 97,061-C

LUIS S. LACATTE, JR., #792508
Plaintiff,

v.

GREGORY C. BOLAND, ET. AL.,
Defendants.

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IN THE 251ST DISTRICT COURT

IN AND FOR

POTTER COUNTY, TEXAS

**ORDER SETTING ASIDE SEPTEMBER 13, 2011, ORDER
AND SETTING HEARING**

On this day, the Court *sua sponte* sets aside its September 13, 2011, Order that declared Plaintiff a vexatious litigant, finding that the Court failed to provide the Plaintiff with a hearing.

IT IS THEREFORE ORDERED THAT the September 13, 2011 Order declaring Plaintiff a vexatious litigant is set aside and Defendants' Motion to Declare Plaintiff a Vexatious Litigant and Motion to Dismiss as Frivolous is hereby set for hearing on Wednesday, ~~January 4, 2012~~², at 9:00 a.m. in the Potter County Courts Building, 501 S. Fillmore, Suite 4C, Amarillo, Texas.

SIGNED this 4th day of November, 2011.

Ana Estevan
Judge Presiding

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CAROL ANN GREGG
DISTRICT CLERK
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POTTER COUNTY CLERKS
BY _____ DEPUTY