



IN THE
TENTH COURT OF APPEALS

No. 10-10-00296-CV

IN RE WILLIAM R. VANCE, JR., INDIVIDUALLY AND AS
INDEPENDENT EXECUTOR OF THE ESTATE OF FLORENE K.
GRACE, DECEASED

Original Proceeding

MEMORANDUM OPINION

William R. Vance, Jr. seeks a writ of mandamus compelling Respondent, the Honorable John A. Hutchinson III, assigned judge to the County Court at Law No. 1 of Brazos County, to vacate his orders holding Vance in contempt and imposing sanctions for Vance's failure to produce certain documents in response to a discovery request. However, as a result of a recusal motion filed by Vance, the Presiding Judge of the Statutory Probate Courts assigned the Honorable William T. McGee to preside over the underlying suit. *See* TEX. GOV'T CODE ANN. § 25.0022 (Vernon Supp. 2010).

"Mandamus will not issue against a new judge for what a former one did." *In re Baylor Med. Ctr. at Garland*, 280 S.W.3d 227, 228 (Tex. 2008) (orig. proceeding). Until

Judge McGee has had a reasonable opportunity to consider whether Vance should be held in contempt and sanctioned, it would be premature for us to address the issues in this mandamus proceeding. *See In re Shellhorse*, No. 10-10-00111-CV, 2010 WL 2706115, at *1 (Tex. App.—Waco July 7, 2010, orig. proceeding) (mem. op.). Accordingly, we deny the petition without prejudice. *Id.*

FELIPE REYNA
Justice

Before Justice Reyna,
Justice Davis, and
Judge Harrison¹

Petition denied

Opinion delivered and filed October 6, 2010

[OT06]

¹ The Honorable Glen N. Harrison, Judge of the 32nd District Court of Nolan County, sitting by assignment of the Chief Justice of the Supreme Court of Texas pursuant to section 74.003(h) of the Government Code. *See* TEX. GOV'T CODE ANN. § 74.003(h) (Vernon 2005).