

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-13-00216-CV

In re Combined Law Enforcement Associations of Texas and John Burpo

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relators filed a petition for writ of mandamus and an interlocutory appeal challenging the trial court's denial of their motions to dismiss under the Texas Citizens Participation Act (TCPA). *See* Tex. Civ. Prac. & Rem. Code § 27.001-.011. Relators' mandamus petition recognized the split of authority among the appellate courts about whether the TCPA permits interlocutory appeals and observed that this Court had not determined the issue.

However, in *Kinney v. BGB Attorney Search, Inc.*, No. 03-12-00579-CV, 2013 Tex. App. LEXIS 10481, at *10-13 (Tex. App.—Austin Aug. 21, 2013, no pet. h.) (mem. op.), we noted the recent legislative amendment clarifying the availability of an interlocutory appeal from the denial of a motion to dismiss under the TCPA and determined that the amendment applies retroactively to interlocutory appeals, like the one Relators brought here, filed before the amendment's effective date.

Because Relators have an adequate remedy by appeal, their petition for writ of mandamus is denied. *See* Tex. R. App. P. 52.8(a). Relators' interlocutory appeal, *Combined Law*

Enforcement Associations of Texas and John Burpo v. Mike Sheffield, No. 03-13-00105-CV, remains pending.

Jeff Rose, Justice

Before Chief Justice Jones, Justices Rose and Goodwin

Filed: August 29, 2013