



**NUMBER 13-08-00727-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE JUAN ANGEL GUERRA,  
DISTRICT AND COUNTY ATTORNEY  
FOR WILLACY COUNTY, STATE OF TEXAS**

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**On Motion for Stay of Execution of Order of the 197th District Court**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Yañez and Benavides  
Memorandum Opinion Per Curiam**

Juan Angel Guerra, District and County Attorney for Willacy County, State of Texas, has filed a motion for stay of execution of order of the 197th District Court. In the motion, Guerra requests that this Court stay an order signed on December 10, 2008, by the Honorable J. Manuel Bañales. Guerra asserts that this stay should “last until this Court of [A]ppeals reviews the petition for original proceedings in this court, requesting injunctive and mandamus relief.”

As an initial matter, we note that Guerra has not filed an original proceeding stemming from the disputed order. An original proceeding must be commenced before an appellate court can grant temporary relief under Texas Rule of Appellate Procedure 52.10. *In re Ramirez*, 133 S.W.3d 664, 664-665 (Tex. App.–Corpus Christi 2003, orig. proceeding); *In re Kelleher*, 999 S.W.2d 51, 52 (Tex. App.–Amarillo 1999, orig. proceeding); see TEX. R. APP. P. 52.1, 52.10. Until an appropriate petition is filed, there is no dispute before this Court. See *In re Kelleher*, 999 S.W.2d at 52.

Because Guerra has not filed a petition for writ of mandamus, we conclude we have no jurisdiction to consider the emergency motion. Accordingly, this matter is DISMISSED FOR WANT OF JURISDICTION without prejudice to Guerra’s right to reassert the motion after commencing a proceeding pursuant to Texas Rule of Appellate Procedure 52.1.

PER CURIAM

Memorandum Opinion delivered and  
filed this 29th day of December, 2008.