

NO. 12-17-00280-CV
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
JERRY LAZA, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Jerry Laza filed this original proceeding to challenge the trial court’s denial of his motion to show authority.¹ In a subsequently filed motion for emergency stay, Laza stated that the City of Palestine filed a notice of removal to federal court on September 18, 2017. Because of the removal to federal court, this Court took no action on the motion. On December 15, we informed Laza that “[p]ursuant to 28 U.S.C. 1446(d) notice is hereby given that the petition, as indicated by the motion for stay, received in this proceeding does not show the jurisdiction of this Court, to-wit: the case has been removed to federal court and the federal court now has exclusive jurisdiction over the case.” We informed Laza that the petition would be dismissed unless amended on or before December 19 to show this Court’s jurisdiction. That deadline has passed, and Laza has not responded to this Court’s December 15 notice.

Once a notice of removal is filed, it “shall effect the removal and the State court shall proceed no further unless and until the case is remanded.” 28 U.S.C. 1446(d); *see In re Sw. Bell Tel. Co., L.P.*, 235 S.W.3d 619, 624 (Tex. 2007) (“[f]rom the time the case was removed to federal court until it was remanded to state court, the state court was prohibited from taking further action[]”). “Following removal, the federal court has exclusive jurisdiction over the action.” *J.P. Morgan Chase Bank, N.A. v. Del Mar Properties, L.P.*, 443 S.W.3d 455, 460

¹ Respondent is the Honorable Dwight L. Phifer, assigned judge for the 349th Judicial District Court in Anderson County, Texas. The Real Party in Interest is the City of Palestine.

(Tex. App.—El Paso 2014, no pet.). Accordingly, the City’s notice of removal effected the removal and vested the federal court with exclusive jurisdiction over the case. *See* 28 U.S.C. 1446(d); *see also In re Sw. Bell Tel. Co., L.P.*, 235 S.W.3d at 624; *J.P. Morgan Chase Bank, N.A.*, 443 S.W.3d at 460. Thus, we lack jurisdiction over this proceeding and Laza’s petition for writ of mandamus is *dismissed for want of jurisdiction*.

Opinion delivered January 3, 2018.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(PUBLISH)



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

JANUARY 3, 2018

NO. 12-17-00280-CV

JERRY LAZA,
Relator
V.

HON. DWIGHT L. PHIFER,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Jerry Laza; who is the relator in Cause No. DCCV16-356-349, pending on the docket of the 349th Judicial District Court of Anderson County, Texas. Said petition for writ of mandamus having been filed herein on September 18, 2017, and the same having been duly considered, because it is the opinion of this Court that it lacks jurisdiction, it is therefore **CONSIDERED, ADJUDGED and ORDERED** that the said petition for writ of mandamus be, and the same is, hereby **dismissed for want of jurisdiction.**

By *per curiam* opinion.
Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.