

322-744263-23

IN THE 322ND DISTRICT COURT

OF

TARRANT COUNTY, TEAXS

I.T.M.O.M.O)
)
Morgan Michelle Myers,)
Petitioner,)
&)
Charles Dustin Myers,)
Respondent.)
)
<i>And in the interest of M.E.M.</i>)
<i>& C.R.M., two minor children.</i>)

NOTICE: RICO UPDATE

TO THE HONORABLE JUDGE OF SAID COURT:

Respondent CHARLES DUSTIN MYERS respectfully submits this RICO UPDATE to this Court to provide recent updates regarding concurrent Federal litigation closely related to the instant proceedings and shows this Court the following:

I. Introduction

1. As an initial reminder, this divorce matter was initiated on December 18, 2023, and an application for a protective order followed on December 22, 2023.

2. On January 16, 2024, the parties named herein appeared before the Court, where the Respondent was ordered to vacate the family residence prior to any evidentiary hearing taking place, and the setting concluded without the required findings mandated by the Texas Family Code.

3. As this Court and staff are well aware – a litigant cannot be deprived of fundamental rights prior to being afforded an equal opportunity to be heard, and all custody determinations must be in the best interests of the Children involved.

4. Despite these prohibited actions, this Court shelved both of these requirements, and helped participate in the destruction of the status quo and the emotional and financial stability of the two minor children involved.

5. With nothing other than the claims of the Petitioner to go off of, this Court and its' staff continues to disregard basic principles of Texas law for reasons that cannot be determined from the case documents itself.

6. This has lead to the Respondent seeking answers throughout the Texas Judiciary for the prior 18 months only to received unexplained denials and refusals to take action by our State's highest Court.

7. Notably, these denials do not disprove the Respondent's legal position, or imply that he is incorrect in his claims.

8. Due to this Court and the opposing counsel's inaction, Respondent has taken matters into his own hands and seeks to hold the Petitioner accountable for her actions leading up to the initiation of this divorce suit, which is being prosecuted in the Western District of Oklahoma.¹

9. This case must be dismissed as it has no path towards a lawful resolution.

¹ See https://r.search.yahoo.com/_ylt=AwrEpkmX0YdoCwIA.y5XNyoA;_ylu=Y29sbwNiZjEEcG9zAzEEdnRpZAMEc2VjA3Ny/RV=2/RE=1754940952/RO=10/RU=https%3a%2f%2fwww.pacermonitor.com%2fpublic%2fcase%2f56217911%2fMyers_v_Branthoover/RK=2/RS=4iw2V.Bk6molgBHajbq2ay3Apx8-

II. RICO Developments

10. On July 24, 2025, Petitioner Morgan Michelle Myers filed a pro-se Motion to Dismiss in federal court, claiming that the allegations raised in the complaint are domestic issues, and requested the case be dismissed.

11. At the same time, Petitioner hides behind her alleged attorney here in this matter, and has not prosecuted the case in over 12 months. This Court and its' reviewing staff must ask themselves: why can she participate pro-se in federal court, but remains absolutely silent here in this Court?

12. The answer is simple: because she has no valid legal representation, and this Court knows that.

III. Analysis

13. In a normal case with a fair and impartial tribunal, the consequences for an attorney not prosecuting a divorce case for over 12 months can be severe. Under Rule 165a of the Texas Rules of Civil Procedure, courts have authority to dismiss cases that are not disposed of within the Supreme Court's time standards. Additionally, courts possess inherent power to dismiss cases not prosecuted with due diligence. When a case has been dormant for an extended period without reasonable explanation, courts may presume abandonment and dismiss the case for want of prosecution, though the attorney may have an opportunity to reinstate the case by showing good cause for the delay.

14. Not only has Respondent repeatedly brought this to the Court's attention, but he has also filed a Motion to Dismiss for Want of Prosecution which this Court has the inherent power to set at any time given the delay in prosecution by our friends on the other side.

15. Courts in Texas have authority to dismiss cases for want of prosecution from two primary sources: Rule 165a of the Texas Rules of Civil Procedure and the court's inherent power.

A. Rule 165a Dismissal

16. Rule 165a explicitly authorizes courts to dismiss cases that are not disposed of within the time standards promulgated by the Supreme Court. According to *Villarreal v. San Antonio Truck & Equip.*, 994 S.W.2d 628, 42 Tex. Sup. Ct. J. 662 (Tex. 1999), "A trial court may dismiss under Rule 165a on 'failure of any party seeking affirmative relief to appear for any hearing or trial of which the party had notice,' TEX. R. CIV. P. 165a(1), or when a case is 'not disposed of within the time standards promulgated by the Supreme Court....'". This latter provision, found in Rule 165a(2), is particularly relevant to cases that have been dormant for extended periods, such as those not prosecuted for over 12 months, which is the case here.

17. Furthermore, *Whallon v. Candlelight Trails I Ass'n*, NO. 01-18-00493-CV (Tex. App. Nov 14, 2019) reiterates this authority: "A trial court may dismiss a suit under Rule 165a if (1) a party seeking affirmative relief fails to appear for any hearing or trial of which the party had notice or (2) the case is not disposed of within the time standards promulgated by the Texas Supreme Court under its administrative rules." The question remains: why does this Court continue to permit this behavior to continue, and what incentive is the Court operating under that is permitting such blatant misconduct to persist, and why has it not utilized its' inherent power to restore justice to these proceedings?

B. Inherent Power to Dismiss

18. In addition to the explicit authority granted by Rule 165a, courts also have inherent power to dismiss cases that are not prosecuted with due diligence. *Whallon v. Candlelight Trails*

I Ass'n, NO. 01-18-00493-CV (Tex. App. Nov 14, 2019) states that "A trial court's authority to dismiss a suit for want of prosecution arises from: (1) Texas Rule of Civil Procedure 165a and (2) the trial court's inherent authority to control its own docket." This inherent power exists independently of the procedural rules.

19. *Villarreal v. San Antonio Truck & Equip.*, 994 S.W.2d 628, 42 Tex. Sup. Ct. J. 662 (Tex. 1999), a seminal case on this issue, clearly establishes that "The trial court's authority to dismiss for want of prosecution stems from two sources: (1) Rule 165a of the Texas Rules of Civil Procedure, and (2) the court's inherent power."

20. *Jimenez v Transwestern Property Co.*, 999 S.W.2d 125 (Tex. Ct. App. 1999) further explains: "Trial courts possess inherent and express power to dismiss cases that have not been prosecuted with diligence. See *Rotello*, 671 S.W.2d at 509. In a dismissal for want of prosecution, the test is not abandonment; the test is due diligence." This highlights that the key consideration is whether the attorney has demonstrated due diligence in prosecuting the case, not whether the case has been explicitly abandoned.

21. When a case has been inactive for an extended period, courts may presume that the plaintiff has abandoned the suit. *Roush v. Metro. Life Ins. Co.*, No. 07-17-00458-CV (Tex. App. Feb 26, 2019) explains that "A delay of unreasonable duration, if not reasonably explained, will give rise to a conclusive presumption that the plaintiff abandoned the suit." This presumption then justifies dismissal under either Rule 165a or the court's inherent power.

22. Despite this capability, this Court only seems interested in prolonging the matter indefinitely, allowing the non-prosecution to leave the parties in legal limbo, and refuses to require any form of written participation from the other side.

III. Conclusion

23. In the beginning, this Court reversed the burden of proof and placed the burden on the Respondent to show why he should not have a protective order issued against him. Now, rather than the opposing counsel having the burden of showing good cause for the unreasonable delay in this case, the Court continues to sit on its' hands, allowing more precious time to be wasted, judicial resources to be consumed, and with no final resolution possible that would comport with Texas Law.

24. As the case continues to languish, this notice is a reminder that despite the inaction here, the Respondent is doing everything he can – in every forum that he can – to ensure that justice is served to himself, his children, and that the Petitioner is held accountable for her egregious actions that are the foundation of this case.

Respectfully submitted.

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
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PRO-SE RESPONDENT

CERTIFICATE OF SERVICE

On July 28, 2025, Respondent CHARLES DUSTIN MYERS certifies that a true and accurate copy of this notice has been provided to all parties of record via the EFM approved by the Texas Supreme Court and in accordance with Rule 21a of the Texas Rules of Civil Procedure.

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
PRO-SE RESPONDENT