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CNMI SUPREME COURT
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Case No.: 2020-SCC-0014-PET
NoraV Borja



IN THE
Supreme Court
OF THE
Commonwealth of the Northern Mariana Islands

IN RE JOSEPH C. GUERRERO,
Petitioner.

Supreme Court No. 2020-SCC-0014-PET

ORDER DENYING WRIT OF MANDAMUS

Cite as: 2021 MP 1

Decided December 2, 2020

CHIEF JUSTICE ALEXANDRO C. CASTRO
ASSOCIATE JUSTICE JOHN A. MANGLONA
ASSOCIATE JUSTICE PERRY B. INOS

Superior Court Civil Action No. 17-0194
Associate Judge Joseph N. Camacho, Presiding

PER CURIAM:

¶ 1 Joseph C. Guerrero (“Guerrero”) petitions for a writ of mandamus less than 48 hours before the final distribution hearing for the Estate of Edward Camacho Arriola (“Estate”). He requests this Court issue a stay on the proceedings below or in the alternative stay the distribution of the Estate’s assets. The petition for writ of mandamus is DENIED as the record does not provide the documents essential to understand the petition.

I. FACTS AND PROCEDURAL HISTORY

¶ 2 The Estate entered probate in 2017. Guerrero later filed a separate action against the Estate and Edward Arriola (“Arriola”). In that action, Guerrero alleged Arriola had assumed but failed to satisfy Guerrero’s personal liabilities. This was the basis for Guerrero’s notice of creditor claim filed in the probate action.

¶ 3 A couple years later, the Estate filed a motion for summary judgment. It also disputed whether Guerrero had a claim in the probate matter. After a hearing on these issues, the court issued an order finding Guerrero did not have a claim because there was no agreement between Guerrero and Arriola that Arriola would assume Guerrero’s personal liabilities. *In the Matter of the Estate of Edward Camacho Arriola*, Civ. No. 17-0194 (NMI Super. Ct. July 13, 2020) (Order at 11).¹ Guerrero appealed this order, but it remains with the Superior Court until entry of a separate judgment or 150 days have passed for it to become final. NMI SUP. CT. R. 4(a)(7)(A)(ii). Since issuance of the order, a petition for final distribution was filed and a hearing was scheduled for December 3, 2020 at 10 a.m. Guerrero claims he requested a stay of proceedings below, which the court denied, and an entry of judgment, on which the court had not acted.

II. JURISDICTION

¶ 4 We have jurisdiction to issue writs of mandamus under Article IV, Section 3 of the NMI Constitution. *Tudela v. Superior Court*, 2007 MP 18 ¶ 4.

III. DISCUSSION

¶ 5 Guerrero argues that if the court grants final distribution it will foreclose any challenge to the court’s order. In his petition for writ, he requests one of the following remedies: (1) the Court grant the petition and stay the proceedings below for thirty (30) days so he can perfect his appeal and seek a permanent stay; (2) if the Court denies the petition, the petition be converted to an appeal; or (3) upon final distribution of the assets, the Court immediately take up the appeal and stay the distribution of assets. Guerrero argues the order was clearly erroneous under the *Tenorio v. Superior Court*, 1 NMI 1 (1989) factors for granting a petition for writ of mandamus. He contends the notice of the hearing

¹ *In the Matter of the Estate of Edward Camacho Arriola*, Civ. No. 17-0194 (NMI Super. Ct. July 13, 2020) (Order Finding That Joseph Cabrera Does Not Have a Claim and Is Therefore Not a Creditor and Cannot Participate in This Probate Action at 11). We footnote the full citation due to the order’s lengthy title.

on the existence of his claim was defective, the ruling on the merits was improper, and the court failed to retain and evaluate his equitable claims against the Estate.²

¶ 6 We do not address these arguments or the other *Tenorio* factors because the record before us is insufficient. “The petition must include a copy of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.” NMI SUP. CT. R. 21(a)(2)(C). The duty to provide an adequate record rests with the petitioner. *Cf. In re Babauta*, 2016 MP 6 ¶ 15; *cf. Camacho v. Demapan*, 2010 MP 3 ¶ 3 n.1; *cf. Pac. Saipan Tech. Constrs. v. Rahman*, 2000 MP 14 ¶ 12 (“It is the responsibility of appellant’s counsel to ensure that the excerpts of record are sufficient for consideration and determination of the issues on appeal.”). Several documents essential to understanding Guerrero’s arguments are missing.³ Counsel’s declaration filed with the petition does not suffice. The record provided is therefore insufficient for us to render a decision.

V. CONCLUSION

¶ 7 The record lacks the necessary documents for our review. The petition is therefore DENIED.

SO ORDERED this 2nd day of December, 2020.

/s/

ALEXANDRO C. CASTRO
Chief Justice

/s/

JOHN A. MANGLONA
Associate Justice

/s/

PERRY B. INOS
Associate Justice

² Curiously, for the first time on appeal, Guerrero raises potential conflicts that could merit judicial disqualification in the probate matter. He also mentions the probate court failed to address the request for entry of judgment.

³ As we noted in a separate order dismissing a related appeal in this matter, the full record must be before the Court so it can adequately determine the issues presented by the petitioner. *In Re Arriola*, No. 2020-SCC-0003-CIV (NMI Sup. Ct. Oct. 23, 2020) (Order Granting Motion to Dismiss at ¶ 4). Petitioner again fails to provide the full record.

COUNSEL

George Lloyd Hasselback, Saipan, MP, for Petitioner.

NOTICE

This slip opinion has not been certified by the Clerk of the Supreme Court for publication in the permanent law reports. Until certified, it is subject to revision or withdrawal. In the event of discrepancies between this slip opinion and the opinion certified for publication, the certified opinion controls. Readers are requested to bring errors to the attention of the Clerk of the Supreme Court, P.O. Box 502165 Saipan, MP 96950, phone (670) 236-9715, fax (670) 236-9702, e-mail Supreme.Court@NMIJudiciary.com.



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ORDER FOR PUBLICATION

On December 1, 2020, Petitioner Joseph C. Guerrero filed a Petition for Writ of Mandamus. On December 2, 2020, the Court denied Guerrero's writ. Pursuant to Article IV, Section 9, of the Constitution of the Commonwealth of the Northern Mariana Islands, the court hereby ORDERS the following Order be issued For Publication.

SO ORDERED this 6th day of January, 2021.

/s/

ALEXANDRO C. CASTRO
Chief Justice

/s/

JOHN A. MANGLONA
Associate Justice

/s/

PERRY B. INOS
Associate Justice