

Petition for Writ of Mandamus Denied and Memorandum Opinion filed March 23, 2010



In The

**Fourteenth Court of Appeals**

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NO. 14-10-00176-CV

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**IN RE MARSHALL JAMES FRAZIER, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS**

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**MEMORANDUM OPINION**

On March 5, 2010, relator, Marshall James Frazier, filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann. § 22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to compel the Honorable John Phillips, presiding judge of the 314th District Court of Harris County, to dismiss the underlying suit affecting the parent-child relationship filed by the Texas Department of Family and Protective Services (the "TDFPS"), and order the immediate return of the children to him.

In his petition, relator claims the trial court should not have (1) continued the suit affecting the parent-child relationship case beyond the statutory limit of one year and extension of 180 days with the children remaining in foster care or under the

conservatorship of the TDFPS; and (2) ordered that the TDFPS remain as temporary conservator of the children after dismissal of the suit affecting the parent-child relationship and the re-filing of the suit when there are no new allegations warranting removal or termination.

To be entitled to the extraordinary relief of a writ of mandamus, the relator must show that the trial court clearly abused its discretion and there is no adequate remedy by appeal. *In re Team Rocket, L.P.*, 256 S.W.3d 257, 259 (Tex. 2008) (orig. proceeding). Relator has not provided copies of the order dismissing the first suit affecting the parent-child relationship filed by the TDFPS or the petition filed by the TDFPS in the second suit which relator references in his petition for writ of mandamus. Additionally, there may be other documents not referred to in relator's petition, also material to his claim for relief. Relator has not met his burden of providing a sufficient record establishing his right to mandamus relief. *See Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding); Tex. R. App. P. 52.3(k), 52.7.

Relator has not established his entitlement to the extraordinary relief of a writ of mandamus. Accordingly, we deny relator's petition for writ of mandamus and motion for temporary emergency relief.

PER CURIAM

Panel consists of Justices Yates, Seymore, and Brown.