



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-12-0501-CV

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**IN RE R. WAYNE JOHNSON, RELATOR**

**March 5, 2013**

**ON PETITION FOR WRIT OF MANDAMUS**

**Before Quinn, C.J., and Campbell and Pirtle, JJ.**

Relator R. Wayne Johnson, an indigent prison inmate proceeding *pro se*, seeks a writ of mandamus compelling respondent, the Honorable Gordon Green, judge of the 287th District Court of Bailey County, to vacate an order dismissing a suit relator filed.

Relator does not support his petition with a record or appendix. Rather he says we should judicially notice the order in the record of *Johnson v. Denton*, 07-11-00486-CV, 2012 Tex. App. Lexis 5794 (Tex.App.--Amarillo July 18, 2012, no pet) (mem. op.). That proceeding was relator's direct appeal of the same trial court order that relator now challenges by mandamus. We dismissed the direct appeal on relator's motion for voluntary dismissal.

We also denied a previous petition by which relator sought mandamus relief challenging Judge Green's order. *In re Johnson*, 07-12-00406-CV, 2012 Tex. App. Lexis 8734 (Tex.App.--Amarillo, Oct. 17, 2012, orig. proceeding) (per curiam, mem. op.).

In this petition, relator's argument on the merits seems to follow the logic that Judge Green's order dismissing his suit was void because the mandatory site for its filing was Potter County, the county of his confinement,<sup>1</sup> even though relator chose to file the suit in Bailey County. As we have held in previous cases, relator's contention is misguided. *In re Johnson*, No. 07-11-00497-CV, 2012 Tex. App. Lexis 336 (Tex.App.--Amarillo Jan. 13, 2012, orig. proceeding) (per curiam, mem. op.); *In re Johnson*, No. 07-11-00433-CV, 2011 Tex. App. Lexis 8662 (Tex.App.--Amarillo Oct. 31, 2011, orig. proceeding) (per curiam, mem. op.).

Further reviewing the record from relator's direct appeal of Judge Green's order, we note also that relator's civil suit filed in Bailey County was subject to Chapter 14 of the Civil Practice and Remedies Code. See Tex. Civ. Prac. & Rem. Code Ann. §§ 14.001-.014 (West 2002 & Supp. 2012). The suit thus was subject to dismissal by the court on its own motion absent compliance with the requirements of the statute. Tex. Civ. Prac. & Rem. Code Ann. § 14.003(a), (c) (West 2002). The record reveals no attempt at compliance with Chapter 14's requirements.

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<sup>1</sup> See Tex. Civ. Prac. & Rem. Code Ann. § 15.019(a) (West 2002) (with exceptions, requiring actions accruing while the plaintiff is housed in a Texas Department of Criminal Justice facility to be brought in the county in which the facility is located). Relator does not explain his selection of Bailey County as the venue for his suit given his familiarity with the terms of § 15.019(a). See, e.g., *In re Johnson*, No. 12-07-0032-CV, 2007 Tex. App. Lexis 673 (Tex.App.--Tyler, January 31, 2007) (orig. proceeding) (addressing similar contention by relator).

For those and other reasons, we conclude relator has not shown an abuse of discretion by Judge Green. His petition for mandamus is denied.

Per Curiam