

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-22-00299-CV

In re Tracy Nixon

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relator Tracy Nixon, appearing pro se, has filed a petition for writ of mandamus, complaining that the local administrative judge of Travis County denied permission to file a proposed lawsuit. Nixon is a vexatious litigant subject to a prefiling order requirement. *See* Tex. Civ. Prac. & Rem. Code § 11.101.

The decision of a local administrative judge denying a litigant permission to file suit may not be appealed “except that the litigant may apply for a writ of mandamus with the court of appeals not later than the 30th day after the date of the decision.” Tex. Civ. Prac. & Rem. Code § 11.102(f). Nixon was notified in writing that the local administrative judge denied permission to file on April 15, 2022, but Nixon’s petition was not received by this Court until May 23, 2022. The record indicates Nixon deposited the petition with the United States Postal Service on May 18, 2022, and Nixon has failed to provide any other conclusive proof that the petition was otherwise timely mailed. *See* Tex. R. App. P. 9.2(b)(1)(C) (considering timely filed documents received within ten days after the filing deadline only if the document was deposited

in the mail “on or before the last day for filing”). Nixon has therefore failed to timely file a mandamus petition pursuant to Section 11.102(f). *See In re Johnson*, 390 S.W.3d 584, 586 (Tex. App.—Amarillo 2012, orig. proceeding).

Accordingly, we dismiss the petition for writ of mandamus for want of jurisdiction.

Thomas J. Baker, Justice

Before Justices Goodwin, Baker, and Triana

Filed: May 27, 2022