

NO. 12-10-00441-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE:

§

KIRK WAYNE MCBRIDE, SR.

§

ORIGINAL PROCEEDING

§

***MEMORANDUM OPINION
PER CURIAM***

Relator Kirk Wayne McBride, Sr. seeks a “Writ of Mandamus and/or Writ of Prohibition.” In his petition, he names as respondents Wanda Burke and Janice Staples, the county and district clerks of Anderson County, Texas, as well as the Honorable Pam Foster Fletcher, Judge of the 349th Judicial District Court of Anderson County. McBride alleges that he presented an original petition to the county clerk for filing in the county court at law, but that the district clerk ultimately acquired possession of the petition and filed it in the 349th Judicial District Court. He alleges further that Judge Fletcher has refused to transfer the case to the county court at law.

A party seeking mandamus relief must generally bring forward all that is necessary to establish the claim for relief. *See* TEX. R. APP. P. 52. This includes providing an adequate record to substantiate the allegations in the petition for mandamus. ***Walker v. Packer***, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding). Without a sufficient record, a party seeking mandamus relief has not proved any entitlement to the writ. ***Id.*** Here, McBride has failed to furnish the record required by rule 52. *See* TEX. R. APP. P. 52.7(a) (requiring record to be filed with petition in original proceeding). Therefore, we cannot conclude that he is entitled to the relief requested. Accordingly, we ***deny*** the petition for writ of mandamus.

Opinion delivered January 19, 2011.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(PUBLISH)