

Denied and Opinion Filed August 5, 2016



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-00904-CV

IN RE RAUL NOEL GOMEZ, Relator

Original Proceeding from the Criminal District Court No. 4
Dallas County, Texas
Trial Court Cause No. F-97-00012-LK

MEMORANDUM OPINION

Before Chief Justice Wright and Justices Lang and Brown
Opinion by Chief Justice Wright

Relator has filed a pleading title motion for “Leave for Original Proceeding Under 52.4 ‘Response’ for Appeal Process.” We construe the pleading as a petition for writ of mandamus seeking an order directing the district court to rule on an Article 64 motion for forensic DNA testing of evidence purportedly filed in the district court. Relator’s petition is not certified as required by rule 52.3(j) of the rules of appellate procedure and does not include an appendix or record containing the necessary contents set out in rules 52.3(k)(1) and 52.7. Although these deficiencies alone constitute sufficient reasons to deny mandamus relief, in the interest of judicial economy we address the petition.

Relator’s petition is premature and does not include a record showing that he is entitled to mandamus relief. *See In re Blakeney*, 254 S.W.3d 659, 661 (Tex. App.—Texarkana 2008, orig. proceeding) (noting trial courts are entitled to a reasonable time in which to rule and determining six-month delay was not unreasonable); *see also In re Harris*, No. 14–07–231–CV, 2007 WL 1412105, at *1 (Tex. App.—Houston [14th Dist.] May 15, 2007, orig. proceeding) (holding

relator not entitled to mandamus relief when record did not show relator alerted trial court of motion by setting for submission or hearing).

We deny the petition for writ of mandamus.

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

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