

Denied and Opinion Filed February 16, 2018



In The  
**Court of Appeals**  
**Fifth District of Texas at Dallas**

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No. 05-18-00128-CV

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**IN RE NICHOLAS JOHN MATEIK, Relator**

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**Original Proceeding from the 265th Judicial District Court**  
**Dallas County, Texas**  
**Trial Court Cause No. F15-44643-R**

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**MEMORANDUM OPINION**

Before Justices Lang, Myers, and Whitehill  
Opinion by Justice Myers

This Court affirmed relator Nicholas John Mateik’s felony stalking conviction on April 24, 2017. *Mateik v. State*, No. 05-16-00434-CR, 2017 WL 1483395 (Tex. App.—Dallas Apr. 24, 2017, no pet.). In this original proceeding, relator seeks a writ directing the trial court to grant a pretrial motion to compel discovery. Relator’s petition is not properly certified as required by rule 52.3(j) of the rules of appellate procedure and does not include an appendix and record containing the necessary contents set out in rule 52.3(k)(1) and rule 52.7(a). TEX. R. APP. P. 52.3(j), 52.3(k)(1)(a), 52.7(a). Although these deficiencies alone constitute sufficient reasons to deny mandamus relief, in the interest of judicial economy we address the petition.

To establish a right to mandamus relief in a criminal case, the relator must show that the trial court violated a ministerial duty and there is no adequate remedy at law. *In re State ex rel. Weeks*, 391 S.W.3d 117, 122 (Tex. Crim. App. 2013) (orig. proceeding). Further, as the party seeking relief, the relator has the burden of providing the Court with a sufficient mandamus record

to establish his right to mandamus relief. *Lizcano v. Chatham*, 416 S.W.3d 862, 863 (Tex. Crim. App. 2011) (orig. proceeding) (Alcala, J. concurring); *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding). A trial court has a ministerial duty to rule upon a properly filed and timely presented motion. *See State ex rel. Young v. Sixth Judicial Dist. Court of Appeals*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding).

Here, relator states that the trial court denied the motion to compel. By ruling on the motion, the trial court fulfilled its ministerial duty. Accordingly, we deny relator's petition for writ of mandamus.

/Lana Myers/  
LANA MYERS  
JUSTICE

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