

DENY; and Opinion Filed November 6, 2018.



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

**No. 05-18-01237-CV
No. 05-18-01238-CV**

IN RE REGINALD DONELL RICE, Relator

**Original Proceeding from the 265th Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F-1476788-R and F-1476789-R**

MEMORANDUM OPINION

Before Justices Lang-Miers, Fillmore, and Stoddart
Opinion by Justice Fillmore

In this original proceeding, relator complains that the trial court has not ruled on relator's motion for appointment of counsel and motion for Chapter 64 DNA testing. We deny 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). 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. *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding). Rules 52.3 and 52.7 require the relator to provide "a certified or sworn copy" of certain documents, including any order complained of, any other document showing the matter complained of, and every document that is material to the relator's claim for relief that was filed in any underlying proceeding. TEX. R. APP. P. 52.3(k)(1)(A), 52.7(a)(1).

Here, relator has not filed a mandamus record and has not attached any documents to his petition in order to comply with Rules 52.3 and 52.7. This record is insufficient to establish that the motions were properly filed and timely presented and that the trial court was asked to rule but failed to do so within a reasonable time. As such, relator has not established a violation of a ministerial duty and is not entitled to mandamus relief. Accordingly, we deny relator's petition for writ of mandamus. *See* TEX. R. APP. P. 52.8(a) (the court must deny the petition if the court determines relator is not entitled to the relief sought).

/Robert M. Fillmore/

ROBERT M. FILLMORE
JUSTICE

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