

Denied and Opinion Filed December 27, 2018



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

No. 05-18-01510-CV

IN RE VENKY VENKATRAMAN, Relator

**Original Proceeding from the 256th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF04-11968**

MEMORANDUM OPINION

**Before Justices Francis, Myers, and Evans
Opinion by Justice Evans**

In this original proceeding, relator complains that the trial court has not complied with this Court's June 22, 2018 mandate in his appeal of a May 4, 2016 Order in a suit affecting the parent-child relationship. *See* 05-16-00519-CV. Relator argues the trial court has failed to comply with the mandate because the trial court has not entered a final order on remand. Relator seeks a writ of mandamus directing the trial court to sign a final order based on this Court's June 22, 2018 mandate in cause number 05-16-00519-CV.

To be entitled to mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). If a trial court fails to issue a judgment in accordance with our mandate, the aggrieved party may seek either a writ of prohibition or a writ of mandamus. *Lee v. Downey*, 842 S.W.2d 646, 648 (Tex. 1992). Mandamus will issue to ensure compliance with this court's judgment. *Id.*

In the appeal of the May 4, 2016 SAPCR Order, this Court affirmed in part and reversed in part. The mandate does not order the trial court to enter a final order on remand. Rather, the mandate remanded the case to the trial court “for further proceedings consistent with this opinion”:

The May 4, 2016 “Order in Suit Affecting the Parent-Child Relationship Nunc Pro Tunc” is AFFIRMED in part and REVERSED in part. We REVERSE that portion of the order concerning Venky Venkatraman’s possession of or access to the children and REMAND to the trial court for proceedings consistent with this opinion, and we strike the paragraph in the order entitled “Future Litigation by Venky Venkatraman.” In all other respects, the order is AFFIRMED. We REMAND this cause to the trial court for further proceedings consistent with this opinion.

“Due to the extraordinary nature of the remedy, the right to mandamus relief generally requires a predicate request for action by the respondent, and the respondent’s erroneous refusal to act.” *In re Coppola*, 535 S.W.3d 506, 510 (Tex. 2017) (orig. proceeding) (citing *In re Perritt*, 992 S.W.2d 444, 446 (Tex. 1999) (orig. proceeding)). Further, as the party seeking relief, the relator has the burden of providing the Court with a sufficient record to establish his right to 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, the mandamus record includes only three items: (1) the trial court’s May 4, 2016 Final Orders, (2) this Court’s August 30, 2017 opinion in cause number 05-16-00519-CV, and (3) this Court’s June 22, 2018 mandate in cause number 05-16-00519-CV. The mandamus record does not include a docket sheet showing the trial court proceedings after this Court issued its June 22, 2018 mandate and does not include any filings by relator seeking a final order in the trial court. Under this record, relator has not shown that he has asked the trial court to enter a final order on remand and has not shown that the trial court has failed to comply

with the mandate. Further, relator has not argued or shown that the facts of this case present one of the “rare occasions” in which the predicate-request requirement should be relaxed. *See id.*

Based on the record before us, we conclude relator has not shown he is 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).

/David Evans/

DAVID EVANS
JUSTICE

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