

Opinion issued January 21, 2011



In The
Court of Appeals
For The
First District of Texas

NO. 01-10-01130-CR

IN RE CLIFTON JERRY LANDRY, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

By petition for writ of mandamus, relator, Clifton Jerry Landry, complains that the trial court has not considered various motions and other documents filed by relator in the underlying case, which is cause number 507035 in the 262nd District Court of Harris County, Texas.

Relator's petition names the Honorable Mike Anderson as respondent in this mandamus proceeding. Judge Anderson, however, no longer presides over the

262nd District Court; the Honorable Denise Bradley is the current presiding judge of that court. “When a public officer is a party in an official capacity to an appeal or original proceeding, and if that person ceases to hold office before the appeal or original proceeding is finally disposed of, the public officer’s successor is automatically substituted as a party if appropriate.” TEX. R. APP. P. 7.2(a). Thus, we substitute Judge Bradley for Judge Anderson as respondent. *See id.*

We acknowledge that, pursuant to Texas Rule of Appellate Procedure 7.2(b), this Court should abate an original proceeding in which one public officer is substituted for another as a party in order to “allow the successor to reconsider the original party’s decision.” TEX. R. APP. P. 7.2(b). But we conclude abatement is not required here. Relator’s petition will not support mandamus relief against any respondent because it does not comply with the rules for original proceedings. Relator has not provided this Court with certified or sworn copies of the various motions and other documents about which he complains; nor has he provided any record of when such motions and documents were filed. *See* TEX. R. APP. P. 52.7 (a)(1) (requiring relator to file certified or sworn copy of documents material to claim for relief); *see Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) (denying mandamus relief for failure to provide sufficient record). And, given relator’s complaint is that Judge Anderson did not consider relator’s motions and documents, we would waste judicial resources by

abating this case for reconsideration of a motion or pleading that has not been considered in the first instance. *See In re Polk*, No. 07-08-0271-CV, 2008 WL 3167829, at *1 (Tex. App.—Amarillo Aug. 7, 2008, orig. proceeding) (mem. op.).

Accordingly, we **deny** the petition for writ of mandamus.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Alcala and Bland.

Do not publish. TEX. R. APP. P. 47.2(b).