

Opinion issued August 11, 2020



**In The
Court of Appeals
For The
First District of Texas**

NO. 01-20-00496-CR

IN RE SKYLER THOMAS RICE, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Skyler Thomas Rice, has filed a petition for writ of mandamus asking this Court to direct respondent, the Honorable Ramona Franklin, to rule on a writ of habeas corpus and to appoint counsel to represent relator in a motion to

revoke community supervision.¹ We deny the petition. *See* TEX. R. APP. P. 9.4, 52.3(k).

Relator's petition does not comply with the requirements enumerated in Texas Rule of Appellate Procedure 52.3 because it lacks an adequate appendix.² *See* TEX. R. APP. P. 52.3(k)(1) (requiring original proceedings to be filed with appendix that contains "a certified or sworn copy of any order complained of, or any other document showing the matter complained of"). In the absence of an adequate appendix or record, this Court cannot evaluate the merits of relator's petition. *See In re McCreary*, No. 12-15-00067-CR, 2015 WL 1395783, at *1 (Tex. App.—Tyler Mar. 25, 2015, orig. proceeding) (mem. op., not designated for publication) ("Without an appendix and a record, we are unable to determine that [r]elator is entitled to mandamus relief").

Relator's petition also is deficient because there is no showing that respondent refused to rule on his application for writ of habeas corpus or on his request for appointed counsel. *See O'Connor v. First Court of Appeals*, 837 S.W.2d 94, 97 (Tex. 1992) (to obtain mandamus relief, relator must show

¹ The underlying case is *The State of Texas v. Skyler Thomas Rice*, Cause Number 1580280, pending in the 338th District Court of Harris County, Texas, the Honorable Ramona Franklin presiding.

² Relator's appendix comprises two documents: A purported copy of the writ of habeas corpus pending before the trial court and an Affidavit of Restraint. The purported copy of the writ of habeas corpus is not file-stamped.

respondent had legal duty to perform non-discretionary act, relator made demand for performance, and respondent refused); *In re Dong Sheng Huang*, 491 S.W.3d 383, 385–86 (Tex. App.—Houston [1st Dist.] 2016, orig. proceeding) (“Filing a request for a ruling is insufficient to call the matter to the judge's attention because a judge may be unaware of the request. Instead, the party demanding a ruling must set its request either for submission or a hearing.”).

Accordingly, we deny relator’s petition for writ of mandamus.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Lloyd and Countiss.

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