

**Affirmed and Memorandum Opinion filed March 18, 2010.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-09-00064-CV**

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**RODNEY STEVE HAINES, Appellant**

**V.**

**MARY K. SHEELEY, CORRECTIONAL WARDEN, Appellee**

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**On Appeal from the 87th District Court  
Freestone County, Texas  
Trial Court Cause No. 08-416B**

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**MEMORANDUM OPINION**

Appellant Rodney Steve Haines, appeals the dismissal of his suit under Chapter 14 of the Texas Civil Practice and Remedies Code. *See* Tex. Civ. Prac. & Rem. Code Ann. §§ 14.001-.014 (Vernon 2002). In one issue, he asserts that the trial court abused its discretion in dismissing his suit. We affirm.

According to his petition, Haines was assaulted by Freddy Vargas, another inmate at the Boyd Unit of the Texas Department of Criminal Justice in Freestone County. Haines was transported for treatment of his injuries to the East Texas Medical Center at Fairfield. After an administrative investigation, Vargas received disciplinary action. Haines asserts

that he wanted to file criminal charges against Vargas. He claims that prison officials informed him that charges would be filed, but they were not. Haines initiated an inmate grievance, but was unsuccessful in obtaining relief. Haines contacted the Freestone County Sheriff's office and requested that charges be filed against Vargas. He also contacted the Office of the Inspector General, the Texas Attorney General's office, the Freestone County Attorney, and the Freestone County Clerk in an effort to have charges filed. After receiving no assistance from these agencies and exhausting the inmate grievance process, Haines filed this suit against Mary K. Sheeley, the Senior Warden of the Boyd Unit, seeking an "Alternative Writ" ordering her to submit the necessary information to the appropriate Freestone County officials to initiate a criminal prosecution against Vargas.

On November 14, 2008, the trial court signed a dismissal order. Haines filed a timely notice of appeal. On appeal, Haines claims that the trial court abused its discretion in dismissing his suit, thereby denying his First Amendment right to petition the court for redress of grievances and his right to due course of law.

Chapter 14 of the Texas Civil Practice and Remedies Code governs inmate litigation. *See* Tex. Civ. Prac. & Rem. Code Ann. §§ 14.001-.014 (Vernon 2002). We review a trial court's Chapter 14 dismissal of an inmate's claims under an abuse of discretion standard. *Retzlaff v. Tex. Dep't of Crim. Justice*, 94 S.W.3d 650, 654 (Tex. App.—Houston [14th Dist.] 2002, pet. denied). A trial court has broad discretion to dismiss an inmate's suit if it finds that the claim asserted is frivolous or malicious. *Martinez v. Thaler*, 931 S.W.2d 45, 46 (Tex. App —Houston [14th Dist.] 1996, writ denied). A trial court abuses this broad discretion if it acts arbitrarily, capriciously, or without reference to any guiding rules or principles. *Id.* A trial court may dismiss a claim before or after service of process if the court finds that the claim is frivolous or malicious. Tex. Civ. Prac. & Rem. Code Ann. § 14.003(a)(2)(Vernon 2002).

Chapter 14 sets forth procedural requirements that an inmate must satisfy when filing a suit *pro se* and seeking to proceed *in forma pauperis*.<sup>1</sup> Tex. Civ. Prac. & Rem. Code Ann. §§ 14.002, 14.004-.006 (Vernon 2002); *see also Lilly v. Northrep*, 100 S.W.3d 335, 336 (Tex. App.—San Antonio 2002, pet. denied). Failure to comply with these requirements will result in dismissal of an inmate’s suit. *Bell v. Tex. Dep’t of Crim. Justice-Inst. Div.*, 962 S.W.2d 156, 158 (Tex. App.—Houston [14th Dist.] 1998, pet. denied).

One of the chapter’s requirements is that an inmate must file a separate affidavit or declaration describing each suit that the inmate has previously filed *pro se*. Tex. Civ. Prac. & Rem. Code Ann. § 14.004 (Vernon 2002). The affidavit or declaration must (a) describe the operative facts for which relief was sought; (b) list the case name, cause number, and the court in which the suit was brought; (c) identify each party named in the suit; and (d) state the result of the suit, including whether the suit was dismissed as frivolous or malicious. *Id.* § 14.004(a)(2). These requirements were enacted to allow the trial court to determine whether an inmate’s present claim is similar to a previously-filed claim. *See Clark v. J.W. Estelle Unit*, 23 S.W.3d 420, 422 (Tex. App.—Houston [1st Dist.] 2000, pet. denied) (stating that “[t]he purpose of section 14.004 is to curb the constant, often duplicative, inmate litigation, by requiring the inmate to notify the trial court of previous litigation and the outcome).

The petition in this case is not accompanied by the required affidavit or declaration describing any prior suits that Haines filed. The burden to provide such information rests on the *pro se* litigant. *See, e.g., Clark*, 23 S.W.3d at 42 (refusing to hold that trial court must sift through numerous documents to find information required by section 14.004).

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<sup>1</sup> While we find no pauper’s affidavit in our record, Haines’s petition states that he complied with certain of Chapter 14’s requirements, the dismissal order states that the trial court considered Chapter 14 in dismissing the suit, and Haines has not contested the applicability of Chapter 14. Therefore, we will review the dismissal under Chapter 14. *See Summers v. State Dept. of Crim. Justice*, 256 S.W.3d 752, 755 (Tex. App.—Beaumont 2008, no pet.).

Dismissal of the suit is warranted when Chapter 14's procedure requirements have not been met. *See Bell*, 962 S.W.2d at 158.

Based on this record, we cannot say the trial court abused its discretion in dismissing Haines's suit. We overrule Haines's sole issue and affirm the trial court's judgment.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Anderson and Christopher.