

Petition for Writ of Mandamus Denied and Memorandum Opinion filed May 11, 2021.



In The

Fourteenth Court of Appeals

NO. 14-21-00075-CV

IN RE KIRBY GARDNER, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
215th District Court
Harris County, Texas
Trial Court Cause No. 2020-61762-7**

M E M O R A N D U M O P I N I O N

On February 8, 2021, relator Kirby Gardener filed a petition for writ of mandamus asking this court to compel the Honorable Elaine Palmer, the presiding judge of the 215th District Court, to “allow litigating proceedings [in the underlying cause] to move forward to its conclusion.” Relator asserts he filed a petition for injunctive and declaratory relief on September 30, 2020 and, other than sending a letter acknowledging his petition was filed, the trial court has taken no further action “that would allow litigation to proceed forward.”

Relator's petition for writ of mandamus omits most of the items required by Texas Rule of Appellate Procedure 52.3, including argument and supporting legal authority. *See* Tex. R. App. P. 52.3(h). The petition does not contain the required certification that relator has reviewed the petition and concluded that every factual statement in it is supported by competent evidence in the appendix or record. Tex. R. App. P. 52.3(j). Relator did not file a record with his petition. Tex. R. App. P. 52.7(a) (relator must file record that includes (1) a certified or sworn copy of every document that is material to the relator's claim and (2) a properly authenticated transcript of any relevant testimony from the underlying proceeding).

We conclude relator has not shown he is entitled to mandamus relief. We deny his petition for writ of mandamus.

/s/ Kevin Jewell
Justice

Panel consists of Justices Jewell, Bourliot, and Hassan
(Bourliot, J., dissenting without opinion)