

Petition for Writ of Mandamus Denied and Memorandum Majority and Dissenting Opinions filed August 31, 2021.



In The

Fourteenth Court of Appeals

NO. 14-21-00462-CV

IN RE CHARLES WATSON, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
270th District Court
Harris County, Texas
Trial Court Cause No. 2015-28746-B**

MEMORANDUM DISSENTING OPINION

Persisting in my view that our duty as judges is to reach a decision on the merits based on a proper record and that due process and due course of law require that this court give notice when the original-proceeding record does not comply with the Texas Rules of Appellate Procedure, I would give relator ten-days notice of involuntary dismissal for failure to comply with Texas Rule of Appellate Procedure 52.7(a) requiring (1) a certified or sworn copy of every document that is material to the relator's claim for relief and that was filed in any underlying proceeding and (2) a properly authenticated

transcript of any relevant testimony from any underlying proceeding, including any exhibits offered in evidence, or a statement that no testimony was adduced in connection with the matter complained. Tex. R. App. P. 52.7(a); *see In re Kholaif*, 624 S.W.3d 228, 231 (order), *mand. disp'd*, 615 S.W.3d 369 (Tex. App.—Houston [14th Dist.] 2020) (orig. proceeding); *see also* Tex. R. 52.3(k)(1) (necessary contents of petition); Tex. Civ. Prac. & Crim. Code Ann. § 132.001 (authorizing unsworn declarations).

I dissent from the court's failure to provide notice and an opportunity to cure. I would not rule on the motion for temporary relief at this time. I express no opinion on the merits of the petition for a writ of mandamus.

/s/ Charles A. Spain
Justice

Panel consists of Chief Justice Christopher and Justices Wise and Spain. (Spain, J., dissenting).