

**Petition for Writ of Mandamus Denied and Memorandum Majority and Dissenting Opinions filed November 9, 2021.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-21-00578-CR**

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**IN RE MICHAEL CHRISTOPHER MOORE, Relator**

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**On Appeal from the 10th District Court  
Galveston County, Texas  
Trial Court Cause No. 21-CR-2272**

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**MEMORANDUM DISSENTING OPINION**

I dissent because relator does not comply with the following mandatory provisions of Rule 52 regarding a proper original-proceeding record: Tex. R. App. P. 52.3(j) (certification), (k)(1) (necessary contents of appendix); 52.7(a)(1) (sworn or certified copies), (a)(2) (properly authenticated transcript of any relevant testimony from any underlying proceeding, including any exhibits offered in evidence, or statement that no testimony was adduced in connection with the matter complained); *see also* Tex. Civ. Prac. & Rem. Code Ann. § 132.001 (unsworn declarations).

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 notice of the deficiencies with the record and allow relator an opportunity to cure. If relator did not timely cure the deficiencies, then I would dismiss the petition for want of prosecution without reaching the merits. *See In re Kholaiif*, 624 S.W.3d 228, 231 (order), *mand. dismiss'd*, 615 S.W.3d 369 (Tex. App.—Houston [14th Dist.] 2020) (orig. proceeding).

I dissent from the court's failure to provide notice and an opportunity to cure. I express no opinion on the merits of the petition for a writ of mandamus.

/s/ Charles A. Spain  
Justice

Panel consists of Justices Jewell, Spain, and Wilson (Jewell, J., majority).

Do Not Publish — Tex. R. App. P. 47.2(b).