

Petition for Writ of Mandamus Denied and Memorandum Majority and Dissenting Opinions filed December 8, 2021.



In The

Fourteenth Court of Appeals

NO. 14-21-00705-CV

IN RE CHARLES A. WATSON, Relator

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

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(k)(1)(A) (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 have given immediate 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. disp'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 Chief Justice Christopher and Justices Wise and Spain (Spain, J., dissenting).