

**Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed
October 11, 2022.**



In The

Fourteenth Court of Appeals

NO. 14-21-00700-CV

IN RE D.S.W., Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
247th District Court
Harris County, Texas
Trial Court Cause No. 2018-88778**

MEMORANDUM OPINION

Relator D.S.W filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221; *see also* Tex. R. App. P. 52. In the petition, relator asks this court to compel the Honorable Janice Berg, presiding judge of the 247th District Court of Harris County, to vacate her August 1, 2019 order granting a default judgment against relator or, alternatively, rule on relator's bill of review that he alleges was filed in May 2021.

We sent relator notice that his petition did not comply with the applicable Texas Rules of Appellate Procedure. *See* Tex. R. App. P. 52.3(k)(1)(A) (providing that appendix must contain certified or sworn copy of any order complained of, or any other document showing the document complained of); Tex. R. App. P. 52.7(a)(1) (requiring relator to file with petition certified or sworn copy of every document that is material to relator’s claim and that was filed in any underlying proceeding); Tex. R. App. P. 52.7(a)(2) (requiring relator to file with petition 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 matter complained of); *see also* Tex. Civ. Prac. & Rem. Code § 132.001(e) (providing that unsworn declaration from inmate may be used in lieu of written sworn declaration).¹ We further gave relator notice that his petition would be dismissed unless relator filed (1) an amended petition and record that complies with Rule 52 including unsworn declarations at the end of both the amended petition and record or (2) an unsworn declaration that specifically describes and authenticates the orders, documents, transcripts, and exhibits attached to relator’s previously filed mandamus appendix or record.

Relator has not cured all defects in his petition. Specifically, relator has not filed an unsworn declaration made under penalty of perjury. Instead, relator stated: “The information in the appendix to my original petition and record in the above styled cause, any order complained of, including any orders, transcripts and exhibits attached with the original petition, and every document that is material to my claim

¹ Relator is an incarcerated inmate.

Accordingly, we dismiss relator's petition for writ of mandamus. We also dismiss as moot relator's motion for temporary relief and motion to proceed without payment of costs.

PER CURIAM

Panel consists of Justices Wise, Spain, and Hassan.