

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-14-00059-CR

IN RE DONALD RUNNELS

Original Proceeding

MEMORANDUM OPINION

Donald Runnels filed a petition for a writ of mandamus either to compel the trial court to release Runnels from custody or to require the trial court to act on an application for writ of habeas corpus that Runnels asserts he filed with the 359th District Court of Montgomery County, Texas on December 17, 2013. We notified Runnels of defects in the petition, and provided an extension of time to provide Runnels with an opportunity to amend his filings to add a supporting record, to describe the method Runnels used to inform the trial court that the documents have been filed and require action, and to serve the respondent and the real party in interest with a copy of the mandamus petition. *See* Tex. R. App. P. 9.5, 52.7; *see also Barnes v. State*, 832 S.W.2d 424, 426-27 (Tex. App.—Houston [1st Dist.]

1992, orig. proceeding). More than thirty days have elapsed since we notified Runnels of the defects in his petition, but Runnels has not cured the deficiencies in his petition.

An appellate court must deny mandamus relief if the petition fails to comply with the requirements of Rule 52 in such a manner that the appellate court is precluded from conducting a meaningful review of the trial court's order. *See In re Layton*, No. 07-07-0490-CV, 2007 WL 4531939, at *1 (Tex. App.—Amarillo Dec. 19, 2007, orig. proceeding). Where the complaint concerns the trial court's failure to act, the mandamus record must show the motion has been actually brought to the trial court's attention or presented for a ruling. *See In re Layton*, 257 S.W.3d 794, 795 (Tex. App.—Amarillo 2008, orig. proceeding).

After having been provided with an opportunity to file a proper mandamus petition, Relator has not demonstrated his entitlement to mandamus relief. Accordingly, we deny the petition for writ of mandamus without prejudice.

PETITION DENIED.

PER CURIAM

Submitted on March 11, 2014
Opinion Delivered March 19, 2014
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Before McKeithen, C.J., Kreger and Horton, JJ.