

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-16-00029-CV

IN RE ROBERT NORMAN SMITHBACK

Original Proceeding
411th District Court of Polk County, Texas
Trial Cause No. CIV29146

MEMORANDUM OPINION

Robert Norman Smithback filed a mandamus petition seeking to compel the 411th District Court to rule on motions filed in his civil case, including Smithback's motion to compel non-party discovery from a federal district court, a request for a bench warrant to unscheduled hearings, and a motion for a temporary restraining order authorizing Smithback to communicate without using the prison communication system. We notified Smithback that he must pay the filing fee or file a declaration of inability to pay costs with an inmate account statement and an affidavit of previous filings.

Smithback submitted a declaration of inability to pay with an inmate account statement and an affidavit of previous filings with his amended petition, but his list of previous filings identifies only one case. Smithback neither identifies each *pro se* action previously brought by him, nor describes each action that was previously brought by: stating the operative facts for which relief was sought; listing the case name, cause number, and the court in which the action was brought; identifying each party named in the action; stating the result of the action, including whether the action or a claim that was a basis for the action was dismissed as frivolous; and stating the date of the final order affirming the dismissal.¹ *See* Tex. Civ. Prac. & Rem. Code Ann. § 14.004 (West Supp. 2015).

Smithback's failure to comply with the mandatory requirements of Section 14.004 is grounds for dismissal. *See In re Price*, No. 07-15-00137-CV, 2015 WL 1883924, at *1 (Tex. App.—Amarillo Apr. 23, 2015, orig. proceeding) (mem. op.); *In re Kennedy*, No. 12-15-00026-CV, 2015 WL 455752, at **1-2 (Tex. App.—

¹Smithback failed to disclose his extensive litigation history. *See, e.g., Smithback v. Texas*, No. 3:07-CV-0288-M ECF, 2007 WL 1518971 at, *1 (N.D. Tex. 2007); *Smithback v. Doe*, No. Civ.A.3:04-CV-146-L, 2004 WL 1944057, at *1 (N.D. Tex. 2004) (action dismissed as frivolous); *Smithback v. 265th Judicial Dist. Court*, No. 3:01-CV-1658-M, 2002 WL 1268031, at *5 (N.D. Tex. 2002) (action dismissed as frivolous); *Smithback v. Dallas C'nty Judicial Dist.*, No. 3:02-CV-1081-G, 2002 WL 1878354, at *5 (N.D. Tex. 2002) (action dismissed as frivolous).

Tyler Jan 30, 2015, orig. proceeding) (mem. op.). Accordingly, we dismiss the petition for writ of mandamus.

PETITION DISMISSED.

PER CURIAM

Submitted on March 23, 2016
Opinion Delivered March 24, 2016

Before McKeithen, C.J., Kreger and Johnson, JJ.