

NO. 07-09-0341-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL C  
NOVEMBER 5, 2009

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In re: JOSEPH H. NORTON,

Relator

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***On Original Proceeding for Writ of Mandamus***

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Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

Pending before the court is the petition for writ of mandamus of Joseph H. Norton. Through it, he seeks an order directing the Honorable Ron Enns, 69<sup>th</sup> Judicial District, to act upon two motions allegedly pending before that court. One of the motions involves the appointment of legal counsel to pursue a request for DNA testing. The other motion concerns his counsel's request to withdraw. Apparently, the trial court had appointed Norton legal counsel at one time or another. Because that attorney moved to withdraw, Norton allegedly requested that he be granted another attorney. We deny the petition for several reasons.

First, Norton has not paid the requisite \$125 filing fee despite our previous directive to do so by November 2, 2009. Nor has he tendered an affidavit of indigence illustrating that he is impoverished and, therefore, unable to pay the fee.

Nor has Norton attached to his petition either motion in question. Texas Rule of Appellate Procedure 52.3(k) mandates that the relator include, in an appendix, the document or documents “showing the matter complained of.” The alleged motions to withdraw and for the appointment of new counsel would fall within that category.

Similarly omitted is any certification by Norton indicating that every factual statement in the petition is supported by competent evidence included in the appendix or record. Such is required by Texas Rule of Appellate Procedure 52.3(j).

Accordingly, the petition for writ of mandamus is denied.

Brian Quinn  
Chief Justice