



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-11-00096-CV

IN RE: R. WAYNE JOHNSON

Original Mandamus Proceeding

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

R. Wayne Johnson has petitioned this Court for mandamus relief. His petition complains of the trial court's order dismissing Johnson's suit with prejudice. We deny relief.

Johnson is on the State of Texas' list of vexatious litigants. *See generally* TEX. CIV. PRAC. REM. CODE ANN. § 11.051–.057 (West 2002). Johnson has attached to his petition for mandamus relief a copy of the trial court's order, which states in relevant part: “Plaintiff Johnson did not obtain permission from the local administrative judge within 10 days of filing of Notice of Vexatious Litigant¹ Status of Plaintiff.” The trial court then dismissed Johnson's suit with prejudice.

Mandamus issues only when the mandamus record establishes (1) a clear abuse of discretion or the violation of a duty imposed by law and (2) the absence of a clear and adequate remedy at law. *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992) (orig. proceeding); *see In re Columbia Med. Ctr. of Las Colinas Subsidiary, L.P.*, 290 S.W.3d 204, 207 (Tex. 2009) (orig. proceeding). It is the relator's burden to provide this Court with a sufficient record to establish the right to mandamus relief. *Walker*, 827 S.W.2d at 837; *In re Pilgrim's Pride Corp.*, 187

¹Johnson has been declared a vexatious litigant in at least three district courts of the State of Texas. See: *R. Wayne Johnson v. John Cornyn and Andy Taylor*, B-01-1159-0-CV-B (156th Dist. Ct, Bee County, June 14, 2001); *R. Wayne Johnson v. Mary Bacon*, 2009-15297 (133rd Dist. Ct., Harris County, July 21, 2009); *R. Wayne Johnson v. Oliver Bell, et al*, D-1-GN10-001424 (345th Dist. Ct., Travis County, Aug. 26, 2010). We also find that one of our sister courts has previously dealt with Johnson in his capacity as a vexatious litigant. See *In re Johnson*, No. 07-06-00445-CV, 2006 Tex. App. LEXIS 10527 (Tex. App.—Amarillo Dec. 8, 2006, orig. proceeding); *In re Johnson*, No. 07-04-416-CV, 2004 Tex. App. LEXIS 7580 (Tex. App.—Amarillo Aug. 23, 2004, orig. proceeding).

S.W.3d 197, 198–99 (Tex. App.—Texarkana 2006, orig. proceeding); *see* TEX. R. APP. P. 52.3, 52.7.

Johnson has provided this Court with nothing to indicate he timely obtained permission from the local administrative judge to file his suit in the trial court. *See* TEX. CIV. PRAC. REM. CODE ANN. §§ 11.101–.102 (West 2002). There is nothing to indicate the trial court abused its discretion in entering the complained-of order; in fact such dismissal would have been required if Johnson failed to provided the required permission. TEX. CIV. PRAC. REM. CODE ANN. § 11.103(b) (West 2002).

We deny Johnson’s request for relief.

Bailey C. Moseley
Justice

Date Submitted: October 6, 2011
Date Decided: October 7, 2011