



IN THE
TENTH COURT OF APPEALS

No. 10-20-00139-CV

IN RE JAIME LUEVANO

Original Proceeding

MEMORANDUM OPINION

In this original proceeding, relator, Jaime Luevano, seeks to compel the Coryell County District Clerk, “Dist. Judges in Coryell,” and the “Waco Texas-D.A.” to accept his filings for civil-rights violations.

We begin by addressing relator’s petition for writ of mandamus to the extent that it seeks mandamus relief against the district clerk and the “Waco Texas-D.A.” We do not have jurisdiction to issue a writ of mandamus against a district clerk or a district attorney, unless it is necessary to enforce our jurisdiction. *In re Smith*, 263 S.W.3d 93, 95 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding); see TEX. GOV’T CODE ANN. § 22.221(a), (b) (West Supp. 2019); see also *In re Bowens*, No. 10-14-00277-CR, 2014 Tex. App. LEXIS

10689, at *1 (Tex. App.—Waco Sept. 25, 2014, orig. proceeding) (mem. op.) (“As a Court of Appeals, we have no jurisdiction to compel a district attorney to act except to enforce our jurisdiction.”). Relator has not shown that a writ of mandamus directed to the district clerk or district attorney is necessary to enforce our jurisdiction. We therefore dismiss relator’s petition for writ of mandamus to the extent that it seeks mandamus relief against the district clerk and district attorney.

We now turn to the portion of relator’s petition for writ of mandamus that seeks relief against “Dist. Judges in Coryell.” Texas Rule of Appellate Procedure 52.7(a) requires that relator file the following with the mandamus petition:

- (1) a certified or sworn copy of every document that is material to the relator’s claim for relief and that was filed in the underlying proceeding; and
- (2) a properly authenticated transcript of any relevant testimony from any underlying proceeding, including any exhibits offered in evidence, or a statement that no testimony was adduced in connection with the matter complained.

TEX. R. APP. P. 52.7(a). Without a mandamus record, we cannot discern whether relator is entitled to mandamus relief in this proceeding. *See Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (“As the parties seeking relief, [relators] have the burden of providing the Court with a sufficient record to establish their right to mandamus relief.”); *see also In re Mullins*, No. 10-09-00143-CV, 2009 Tex. App. LEXIS 7285, at *2 n.1 (Tex. App.—Waco Sept. 16, 2009, orig. proceeding) (mem. op.) (same). Accordingly, we deny the remainder of relator’s mandamus petition.

See id.; *Walker*, 827 S.W.2d at 837; *see also In re Mullins*, 2009 Tex. App. LEXIS 7285,

at *2 n.1.

JOHN E. NEILL
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Neill

(Chief Justice Gray dissenting with a note)*
Petition dismissed, in part, and denied, in part
Opinion delivered and filed August 5, 2020
[OT06]

*(Chief Justice Gray dissents. A separate opinion will not issue, but he provides, however, the following note. This original proceeding is filed by an inmate. As best I can tell from what he presented to this Court, he has sought to file a civil action with the district court clerk of Coryell County. Because the clerk refused to file it, it appears he tried to file the civil action or a mandamus petition directly with the judges of Coryell County. Attempting to file either the civil action or the mandamus directly with the judges apparently did not work either. He has now filed a mandamus with this court. It appears that included in his requested relief is that we compel the trial court to either accept the filing of the civil action directly or accept the petition for a writ of mandamus to compel the trial court clerk to accept and file the civil action. But his petition for writ of mandamus is not clear. The record attached to his petition is not clear. Moreover, because his explanation of what he has done is not clear, the relief he seeks is difficult to follow. As an aside, I recognize that the statements in the petition and the record copies of the documents attached to the petition that he attempted to file are not sworn to nor served on the real-parties-in-interest or the respondents. But the deficiencies can be cured. And generally the Relator has followed the rather complex procedure required to compel a trial court to compel a clerk to file a civil proceeding. *In re Bernard*, 993 S.W.2d 453, 454 (Tex. App.--Houston [1st Dist.] 1999, orig. proceeding). "When a district clerk refuses to accept a pleading presented for filing, the party presenting the document may seek relief by filing an application for writ of mandamus in the district court." *In re Bernard*, 993 S.W.2d at 454 (O'Connor, J., concurring). Recognizing that Luevano is representing himself pro se, Chief Justice Gray would give Luevano, the Relator, the latitude to clarify his petition, specifically what has been done, and what he seeks as a

remedy and to provide a verification of the statements in the petition and the documents attached to it. And if the situation is as it appears to be to Chief Justice Gray, as described above, Chief Justice Gray would request a response from the real-party-in-interest, which is the district clerk, and the respondents, who are the district court judges of Coryell County, as to why the district court judges refused to compel the district court clerk to file the Relator's civil proceeding, which request would be made with a view to granting the relief requested by the Relator. Because the Court denies the petition for writ of mandamus as to the trial court judges, Chief Justice Gray respectfully dissents.)

