



**IN THE  
TENTH COURT OF APPEALS**

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**No. 10-21-00066-CR**

**IN RE ROBERT FIELDS**

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**Original Proceeding**

**From the 18th District Court  
Johnson County, Texas  
Trial Court No. F50040**

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**OPINION**

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Relator's petition for writ of mandamus, filed on March 23, 2021, is denied.<sup>1</sup>

Relator also presented within his petition a motion for leave to file his petition for writ of mandamus. A motion for leave to file a petition for writ of mandamus is required when relief by mandamus is sought from the Court of Criminal Appeals. TEX. R. APP. P. 72.1. The requirement for leave to file a petition for writ of mandamus at the court of

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<sup>1</sup> There are procedural problems with the petition in this proceeding, such as no service on the trial court judge as the respondent and the State as the real-party-in-interest as required by the Rules of Appellate Procedure. See TEX. R. APP. P. 9.5. Additionally, the form and content of the petition is deficient. See TEX. R. APP. P. 52.3. However, to expedite this decision, we use Rule 2 to suspend the operation of these rules. TEX. R. APP. P. 2.

appeals level was eliminated in 1997. *See* TEX. R. APP. P. 52, Notes and Comments. Thus, under the applicable rules, if mandamus relief is sought from an intermediate court of appeals, such as the Tenth Court of Appeals, a motion for leave to file the petition is unnecessary. The petition was filed without regard to the motion for leave to file it. Accordingly, the motion for leave to file a petition for writ of mandamus is dismissed as moot. *See In re Dawson*, 10-19-00427-CR, 2019 Tex. App. LEXIS 10725, 2019 WL 6827566 (Tex. App. – Waco Dec. 11, 2019, orig. proceeding).

PER CURIAM

Before Chief Justice Gray,  
Justice Johnson, and  
Justice Davis<sup>2</sup>  
(Chief Justice Gray concurs with an opinion)

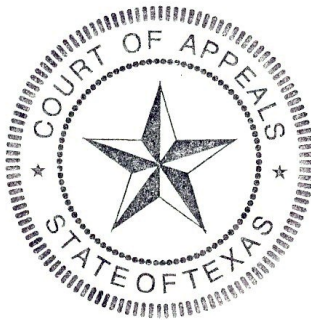
Petition denied

Motion dismissed as moot

Opinion delivered and filed April 7, 2021

Publish

[OT06]



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<sup>2</sup> The Honorable Justice Rex Davis, Senior Justice of the Tenth Court of Appeals, sitting by assignment of the Chief Justice of the Texas Supreme Court. *See* TEX. GOV'T CODE ANN. §§ 74.003, 75.002, 75.003.