

NO. 12-12-00279-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE:

§

THEODORE FLANAGAN,

§

ORIGINAL PROCEEDING

RELATOR

§

***MEMORANDUM OPINION
PER CURIAM***

Relator Theodore Flanagan complains that the trial court has failed to rule on Relator's application for pretrial writ of habeas corpus that incorporated a motion for an examining trial. He requests a writ of mandamus directing the trial court to dismiss the charge against him. We deny the petition.

Texas Rule of Appellate Procedure 52 specifies the materials that must be filed in an original proceeding. Rule 52.3(k) requires a relator to file an appendix as part of the mandamus petition, which must include, unless voluminous or impracticable, the text of any rule, regulation, ordinance, statute, constitutional provision, or other law (excluding case law) on which the relator's argument is based. TEX. R. APP. P. 52.3(k)(1)(C). The relator must also provide a record that includes a certified or sworn copy of every document that is material to the relator's claim for relief and that was filed in any underlying proceeding. TEX. R. APP. P. 52.7(a)(1). In this case, Relator did not provide an appendix or a record. Consequently, we cannot determine whether he is entitled to mandamus relief.¹ Accordingly, Relator's petition for writ of mandamus is *denied*.

Opinion delivered October 31, 2012.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)

¹ Because we do not address the merits of Relator's petition, we express no opinion regarding whether the specific relief sought – dismissal of the indictment – would be available under the facts presented.



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

OCTOBER 31, 2012

NO. 12-12-00279-CR

THEODORE FLANAGAN,
Relator

v.

HON. CAMPBELL COX, II,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by **THEODORE FLANAGAN**, who is the relator in Cause No. 144332, pending on the docket of the 145th Judicial District Court of Nacogdoches County, Texas. Said petition for writ of mandamus having been filed herein on August 27, 2012, and the same having been duly considered, because it is the opinion of this Court that a writ of mandamus should not issue, it is therefore **CONSIDERED, ADJUDGED and ORDERED** that the said petition for writ of mandamus be, and the same is, hereby **DENIED**.

By *per curiam* opinion.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.