

NO. 12-14-00132-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE:

§

RICHARD JAMES JOHNSON,

§

ORIGINAL PROCEEDING

RELATOR

§

MEMORANDUM OPINION

Relator Richard James Johnson seeks a writ of mandamus requiring the trial court to rule on his “motion to appeal.” We deny the petition.

Mandamus is available to correct a clear abuse of discretion when there is no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004) (orig. proceeding). The relator has the burden of establishing both requirements for mandamus. *In re E. Tex. Med. Ctr. Athens*, 154 S.W.3d 933, 935 (Tex. App.–Tyler 2005, orig. proceeding). Thus, a party seeking mandamus relief must generally bring forward all that is necessary to establish the claim for relief. *See* TEX. R. APP. P. 52.

Texas Rule of Appellate Procedure 52 prescribes the contents of a petition in an original proceeding such as this one. *See generally* TEX. R. APP. P. 52. As applied here, this rule requires that a mandamus petition include a complete list of the parties and the names and addresses of all counsel, a table of contents, an index of authorities, a statement of the case, and a statement of jurisdiction. *See* TEX. R. APP. P. 52.3(a)-(e). Other requirements include a statement of the issues presented, a statement of facts, an appendix, a record, and a clear and concise argument for the contentions made with appropriate citations to authorities and to the appendix or record. *See* TEX. R. APP. P. 52.3(f)-(h), (k), 52.7(a). Johnson’s petition does not meet any of these requirements.

Compliance with some of Rule 52's requirements, such as a clear and concise argument and a record, is necessary to provide this court with adequate information to evaluate the relator's request for relief. However, Johnson has failed to comply with these requirements and others that ensure the availability of adequate information to this court. Therefore, we are unable to evaluate the merits of his petition. Accordingly, we **deny** Johnson's petition for writ of mandamus.

Opinion delivered May 30, 2014.

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

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

MAY 30, 2014

NO. 12-14-00132-CV

RICHARD JAMES JOHNSON,
Relator

v.

HON. MARK A. CALHOON,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by **RICHARD JAMES JOHNSON**, who is the defendant in Cause No. 3-42090, pending on the docket of the 3rd Judicial District Court of Anderson County, Texas. Said petition for writ of mandamus having been filed herein on May 22, 2014, 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**.

Brian Hoyle, Justice.

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