

NO. 12-18-00025-CR
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
JODY FORD MCCREARY, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Relator, Jody Ford McCreary, filed this original proceeding seeking an order requiring Respondent to appoint counsel and proceed to trial.¹ On February 12, 2018, this Court notified Relator that his petition for writ of mandamus fails to comply with Texas Rules of Appellate Procedure 52.3 and 52.7. We informed Relator that his petition would be referred to the Court for dismissal unless an amended petition correcting the defects was filed on or February 22. Relator has not filed an amended petition correcting the errors or otherwise responded to this Court's notice.

Texas Rule of Appellate Procedure 52.7 requires the relator to file a record as part of his petition in an original proceeding. *See* TEX. R. APP. P. 52.7. Specifically, a relator must file (1) a certified or sworn copy of every document that is material to his claim for relief and that was filed in any 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). It is a relator's burden to provide this Court with a sufficient record to establish the right to mandamus relief. *See In re Moseley*, No. 05-17-01125-CV, 2017 WL 4402062, at *1 (Tex. App.—Dallas Oct. 4, 2017, orig. proceeding) (mem. op.). Absent a record, this Court cannot conduct a meaningful review of Relator's request for relief. *See id.*

¹ Respondent is the Honorable Kerry L. Russell, judge of the 7th District Court in Smith County, Texas.

Accordingly, because Relator's petition fails to comply with the appellate rules, he presents nothing for this Court to review. We, therefore, *deny* his petition for writ of mandamus.

Opinion delivered February 28, 2018.

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

(DO NOT PUBLISH)



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

FEBRUARY 28, 2018

NO. 12-18-00025-CR

JODY FORD MCCREARY,
Relator
V.

HON. KERRY L. RUSSELL,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Jody Ford McCreary; who is the relator in Cause No. 007-1110-10, pending on the docket of the 7th Judicial District Court of Smith County, Texas. Said petition for writ of mandamus having been filed herein on February 12, 2018, and the same having been duly considered, because it is the opinion of this Court that the writ 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., Hoyle, J. and Neeley, J.