

NO. 12-19-00276-CR
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
RAYMOND DOYLE GILBERT, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Relator Raymond Doyle Gilbert, acting pro se, filed this petition for writ of mandamus to compel Respondent to preserve certain trial evidence and consider motions related thereto.¹ We deny the petition.

On August 19, 2019, the Clerk of this Court notified Relator that his petition for writ of mandamus failed to comply with Texas Rules of Appellate Procedure 52.3(a)–(g), (h), (j), (k), and 52.7. The notice further informed Relator that his petition would be referred to the Court for dismissal unless he provided an amended petition and the record on or before August 22, 2019. This deadline passed and Relator has not filed a mandamus record or amended petition with this Court to correct the defects identified in the August 19, 2019, notice.

A party seeking mandamus relief must bring forward all that is necessary to establish his claim for mandamus relief. *See* TEX. R. APP. P. 52. This entails filing a petition that includes the identity of parties and counsel, a table of contents, an index of authorities, a statement of the case, a statement of jurisdiction, issues presented, a statement of facts, an appendix, clear and concise argument for the contentions made with appropriate citations to authorities and to the appendix or record, and a certification that the person filing the petition has reviewed the petition and concluded

¹ Appellant lists the Respondent as Wendy Templeton, who he purports is the District Clerk of Henderson County, Texas. Appellant lists no Real Parties in Interest in his petition. Nonetheless, copies of this Court's compliance notice were sent to the Honorable R. Scott McKee, Judge of the 392nd District Court, Henderson County District Attorney Mark W. Hall, and Henderson County District Clerk Betty Herriage.

that every factual statement therein is supported by competent evidence included in the appendix or record. *See* TEX. R. APP. P. 52.3(a)–(g), (h), (j), (k). Additionally, 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 record sufficient to establish the right to mandamus relief. *See In re Mack*, No. 12-19-00238-CV, 2019 WL 3024757, at *1 (Tex. App.–Tyler July 10, 2019, orig. proceeding (mem op., not designated for publication)); *In re Daisy*, No. 12-13-00266-CR, 2014 WL 5577068, at *2 (Tex. App.–Tyler Aug. 29, 2014, orig. proceeding) (mem. op., not designated for publication). In this case, Relator did not provide a record in accordance with Rule 52.7. Absent a record, we cannot determine whether Relator is entitled to mandamus relief. *See In re McCreary*, No. 12-15-00067-CR, 2015 WL 1395783 (Tex. App.–Tyler Mar. 25, 2015, orig. proceeding) (mem. op., not designated for publication).

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

Opinion delivered September 11, 2019.

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

SEPTEMBER 11, 2019

NO. 12-19-00276-CR

RAYMOND DOYLE GILBERT,

Relator

V.

HON. R. SCOTT MCKEE,

Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Raymond Doyle Gilbert; who is the relator in Cause No. CR17-0194-392, pending on the docket of the 392nd District Court Judicial District Court of Henderson, Texas. Said petition for writ of mandamus having been filed herein on August 12, 2019, and the same having been duly considered, it is the opinion of this Court that a 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.