

In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-14-00294-CV

IN RE ANTHONY GEORGE HEREFORD, JR., RELATOR

ORIGINAL PROCEEDING FOR WRIT OF MANDAMUS

August 5, 2014

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Pending before the court is a petition for writ of mandamus filed by Anthony George Hereford, Jr. He requests that we direct the Honorable Jim Bob Darnell, Judge of the 140th Judicial District, to rule upon a motion for speedy trial, a motion for the appointment of counsel, and a motion requesting a ruling, which motions allegedly pend in that court. We deny the petition.

Per Texas Rule of Appellate Procedure 52.3(k), the petition must be accompanied by an appendix containing, among other things, any "document showing the matter complained of." TEX. R. APP. P. 52.3(k)(1)(A). A document showing the matter complained of here would be the three motions at issue. Yet, none accompanied the petition. Thus, Hereford failed to comply with the aforementioned rule and provide

us with a record sufficient to address his request. *See In re Craig*, 426 S.W.3d 106 (Tex. App.—Houston [1st Dist.] 2012, orig. proceeding) (denying mandamus because the relator failed to accompany his petition with copies of the documents upon which he sought action).

We further note that nothing within the body of the petition for mandamus indicates that Hereford brought the motions to the attention of the trial court or otherwise notified the trial court of the need to rule upon them. It is not enough to simply file them with the district clerk, for the knowledge of the latter is not imputed to the trial judge. *In re Chavez*, 725, 728 (Tex. App.—Amarillo 2001, orig. proceeding). And, unless it is shown that the trial court was made aware of the need to act, we cannot say it failed to act, and the latter is a condition to obtaining relief via mandamus. *In re Smith*, 279 S.W.3d 714, 715-16 (Tex. App.—Amarillo 2007, orig. proceeding).

Accordingly, the petition for a writ of mandamus is denied.

Brian Quinn
Chief Justice