

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

In re J & R Multifamily Group Ltd.

No. 01-23-00323-CV (Tex. App.—Houston [1st Dist.] June 1, 2023) · No. 01-23-00323-CV · Decided June 1, 2023

SUMMARY

The Texas Court of Appeals for the First District denied J&R Multifamily Group Ltd.'s petition for a writ of mandamus without prejudice. The court held that the petition failed to comply with Texas Rules of Appellate Procedure 52.3 and 52.7 because it lacked an adequate appendix and record, and it dismissed pending motions as moot.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Justice Kelly; Justice Hightower; Justice Countiss
JURISDICTION	Texas
DECIDED	June 1, 2023
DOCKET	01-23-00323-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original proceeding on a petition for writ of mandamus seeking to compel the trial court to grant leave to designate an unknown criminal assailant as a responsible third party.
STANDARD OF REVIEW	Mandamus relief requires the relator to provide an adequate appendix and record containing certified or sworn copies of material documents filed in the underlying proceeding; without an adequate record, the appellate court cannot evaluate the merits.
PRECEDENTIAL VALUE	Memorandum opinion; precedential status not expressly stated in the opinion text.

TOPICS

- appellate procedure
- civil procedure
- remedies

PRACTICE AREAS

- appellate procedure
- civil procedure
- remedies

QUESTIONS PRESENTED

1. Whether the court could evaluate and grant J & R's petition for writ of mandamus when the petition did not include the appendix and record required by the Texas Rules of Appellate Procedure.

HOLDINGS

1. A relator seeking mandamus relief must comply with Texas Rules of Appellate Procedure 52.3(k) and 52.7 by providing an adequate appendix and record containing certified or sworn copies of material documents; absent that submission, the appellate court cannot evaluate the merits of the petition.

KEY QUOTATIONS

“In the absence of an adequate appendix or record, this Court cannot evaluate the merits of relator’s petition.”

“Accordingly, we deny relator’s petition for writ of mandamus without prejudice to refile a petition for writ of mandamus that complies with the Texas Rules of Appellate Procedure.”

FACTUAL BACKGROUND

The underlying action was Jane Doe v. J & R Multifamily Group Ltd. and related entities, involving an unknown criminal assailant whom J & R sought to designate as a responsible third party. J & R filed a motion for leave to make that designation and sought mandamus relief directing the trial court to grant the motion.

PROCEDURAL HISTORY

J & R Multifamily Group Ltd. petitioned the First District Court of Appeals for mandamus relief from the 189th District Court of Harris County. The court denied the petition without prejudice because the relator failed to provide the appendix and record required by the Texas Rules of Appellate Procedure, and dismissed pending motions as moot.

DISPOSITION

writ_denied

REMAND INSTRUCTIONS

The petition was denied without prejudice to refiling a petition that complies with the Texas Rules of Appellate Procedure. No remand to the trial court was ordered.

CASES CITED

- In re Jones, No. 01-20-00575-CV, 2020 WL 9071579, at *1 (Tex. App.—Houston [1st Dist.] Sept. 10, 2020, orig. proceeding [mand. denied]) (mem. op.)

OPINION

PER CURIAM.

Opinion issued June 1, 2023 In The Court of Appeals For The First District of Texas NO. 01-23-00323-CV IN RE J & R MULTIFAMILY GROUP LTD, Relator Original Proceeding on Petition for Writ of Mandamus MEMORANDUM OPINION Relator, J & R Multifamily Group LTD, has filed a petition for a writ of mandamus requesting that this Court “issue a writ of mandamus” directing the trial court to grant relator’s “Motion for Leave to Designate John Doe, Unknown Criminal Assailant as Responsible Third Party.”¹ 1 The underlying case is Jane Doe v. J & R Multifamily Group LTD d/b/a The Worthington at the Beltway a/k/a Worthington Apartments and Casa Nube En Bissonnet and J&R Multifamily Management LLC, Cause No. 2022-71136, in the 1 Relator’s petition does not comply with the requirements enumerated in Texas Rules of Appellate Procedure 52.3 and 52.7.

See TEX. R. APP. P. 52.3(k) (relator required to provide appendix which “must contain” certified or sworn copy of any “document showing the matter complained of”), 52.7 (relator “must file” record with mandamus petition containing “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”).

In the absence of an adequate appendix or record, this Court cannot evaluate the merits of relator’s petition. See, e.g., *In re Jones*, No. 01-20-00575-CV, 2020 WL 9071579, at *1 (Tex. App.—Houston [1st Dist.] Sept. 10, 2020, orig. proceeding [mand. denied]) (mem. op.).

Accordingly, we deny relator’s petition for writ of mandamus without prejudice to refile a petition for writ of mandamus that complies with the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 52.8(a). We dismiss any pending motions as moot. PER CURIAM Panel consists of Justices Kelly, Hightower, and Countiss. 189th District Court of Harris County, Texas, the Honorable Tamika Craft-Demming presiding.