

COURT OF APPEALS OF TEXAS, NINTH DISTRICT AT BEAUMONT

In re Johnny Lewis Jr.

No. 09-20-00272-CV · No. No. 09-20-00272-CV · Decided January 14, 2021

SUMMARY

The Ninth Court of Appeals of Texas dismissed Johnny Lewis Jr.'s petition for a writ of mandamus. The court concluded that Lewis failed to cure identified defects and failed to serve the parties as required by the Texas Rules of Appellate Procedure, without reaching the merits of his claims.

OPINION

PER CURIAM.

In The Court of Appeals Ninth District of Texas at Beaumont _____ NO. 09-20-00272-CV _____ IN RE JOHNNY LEWIS JR. _____ Original Proceeding 172nd District Court of Jefferson County, Texas Trial Cause No. E-205,714 _____

MEMORANDUM OPINION In a petition seeking relief through a writ of mandamus, Johnny Lewis Jr. complains the trial court abused its discretion by failing to rule on a motion he filed in the trial court in which he asked the trial court judge to recuse from hearing his case.

After Lewis filed his petition seeking mandamus relief, we notified him that the petition he filed was defective. We sent him a letter directing him to correct the deficiencies in his petition. We also warned him that unless he amended his petition and cured the defects we identified in the letter we sent to him by December 21, 2020, we would dismiss his petition for mandamus relief.

1 Lewis failed to amend his petition. Instead, he sent the Court a letter, which our Clerk filed on December 30, 2020. In it, Lewis asked this Court to order the trial court's clerk to prepare the clerk's record and to provide him with a copy. But this Court does not have jurisdiction to issue a writ of mandamus requiring an action by a trial court clerk.

Moreover, Lewis failed to serve both his petition for mandamus and the letter he sent to this Court on the parties against whom he is seeking relief. See Tex. R. App. P. 6.3(c) (requiring all notices and other communications filed in the appellate court to be served on "a party if the party is not represented by counsel"); Tex. R. App. P. 9.5(e) (requiring a document that is presented for filing in the Court of Appeals to be accompanied by a certificate of service, which is signed by the person who made service, shows the date and manner of service, and the name and address of each party on which the document was served).

Thus, Lewis continues to ignore the Rules requiring litigants to serve documents filed in this Court on the parties to the proceeding. For the above reasons, we dismiss Lewis's petition without any reference to the merits of his claims. PETITION DISMISSED. PER CURIAM Submitted on January 13, 2021 Opinion Delivered January 14, 2021 Before Golemon, C.J., Horton and Johnson, JJ. 2