

Denied and Opinion Filed September 24, 2018



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-18-01110-CV

IN RE JOHNNY HUDDLESTON, Relator

**Original Proceeding from the 429th Judicial District Court
Collin County, Texas
Trial Court Cause No. 429-04503-2013**

MEMORANDUM OPINION

Before Justices Lang, Myers, and Whitehill
Opinion by Justice Whitehill

Before the Court is relator's September 24, 2018 petition for writ of habeas corpus in which he complains of the trial court's September 21, 2018 order holding relator in civil and criminal contempt and committing him to county jail. In this original proceeding, relator seeks a writ of habeas corpus directing relator's discharge from confinement and restraint.

To obtain habeas relief, the relator must provide proof that he is currently being restrained. TEX. R. APP. P. 52.3(k)(1)(D). The record includes no proof that relator was arrested or that relator remains confined or restrained. The petition, therefore, does not provide the Court with the proof of current restraint required by Rule 52 and should, therefore, be denied. *See e.g., In re Kuster*, 363 S.W.3d 287, 293 (Tex. App.—Amarillo 2012, orig. proceeding); *see also Ex parte Nixon*, No. 05-16-00979-CV, 2016 WL 4437135, at *1 (Tex. App.—Dallas Aug. 22, 2016, orig. proceeding) (mem. op.) (order for issuance of capias and unsworn statement that relator is confined was insufficient to provide the proof of present confinement required by Rule 52); *In re Miller*, No. 05-

14-01023-CV, 2014 WL 3882317, at *1 (Tex. App.—Dallas Aug. 7, 2014, orig. proceeding) (mem. op.) (denying petition and holding that website print out from Collin County Sheriff's Department insufficient to provide proof of confinement).

Accordingly, we deny relator's September 24, 2018 petition for writ of habeas corpus without addressing the merits of the petition.

/Bill Whitehill/

BILL WHITEHILL
JUSTICE

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