

Affirmed and Opinion filed March 28, 2002.



In The

Fourteenth Court of Appeals

NO. 14-02-00151-CR

EX PARTE ROBERT MICHAEL STEFFAN

**On Appeal from the 178th District Court
Harris County, Texas
Trial Court Cause No. 866,943**

OPINION

Applicant, Robert Michael Steffan, filed a pre-trial application for writ of habeas corpus in the trial court challenging the legality of his arrest under a Governor's Warrant. *See* TEX. CODE CRIM. PROC. ANN. Art. 51.13 § 10 (Vernon 1979). On February 15, 2002, the trial court denied relief, and applicant filed this appeal.

The clerk's record on file with the clerk of this Court does not contain the documents supporting applicant's extradition. The record reflects that the trial court conducted a hearing on the application for writ of habeas corpus on February 15, 2002. No reporter's record from that hearing has been filed with this Court. On March 4, 2002, the court reporter responsible for preparing the record informed this Court that no arrangements had been made for paying

for preparation of the record. TEX. R. APP. P. 35.3(b)(3). Applicant is not indigent; the record reflects he is represented by retained counsel and remains free on bond.

Accordingly, on March 6, 2002, the clerk of this Court notified applicant that we would consider and decide those issues that do not require a reporter's record unless applicant, within 15 days of notice, provided this Court with proof of payment for the record. *See* TEX. R. APP. P. 37.3(c). Applicant filed no reply.

When the trial court has denied relief to a habeas corpus applicant, the applicant has the burden of presenting an appellate record sufficient to show that the trial court erred. *Ex Parte Gutierrez*, 987 S.W.2d 227, 230 (Tex. App.—Austin 1999, pet. ref'd). In the absence of a complete record, an appellate court is not in a position to overrule the trial court. *Id.* Applicant has not sustained his burden. The record before this Court provides no information to enable this Court to review the trial court's ruling.

Accordingly, the judgment denying habeas corpus relief is affirmed.

PER CURIAM

Judgment rendered and Opinion filed March 28, 2002.

Panel consists of Chief Justice Brister and Justices Anderson and Frost.

Do Not Publish — TEX. R. APP. P. 47.3(b).