Request that detention hearings be recorded must be made if relator is to contend that the trial judge abused his discretion in signing detention order.[In re N.T.](16-1-4)

On November 25, 2015, the Houston Court of Appeals (14th Dist.) denied Petition for Writ of Mandamus where relator contended that the trial judge abused his discretion by signing an order for detention without a showing that any of the statutorily required findings were made to support detention, because there was no record of the detention hearing and appellate court could not determine whether relator timely and properly requested that the detention hearing be recorded.

¶ 16-1-4. **In re N.T.**, MEMORANDUM, No. 01-15-00970-CV, 2015 WL 7738709 [Tex.App.-Hous. (14th Dist.), 11/25/2015].

**Facts:** Original Proceeding on Petition for Writ of Mandamus. Relator, N.T., has filed a petition for a writ of mandamus, challenging an Order for Detention in a juvenile proceeding. In two issues, relator contends that respondent, the Honorable John Phillips, abused his discretion by signing a void order for detention without making any of the statutorily required findings to support detention. See TEX. FAM. CODE ANN. § 54.01(e) (Vernon 2014) (providing child shall be released from detention unless juvenile court finds one of five listed circumstances supports detention); In re Hall, 286 S.W.3d 925, 929 (Tex. 2009) (citing TEX. FAM. CODE ANN. § 54.01(e)) (stating, following detention hearing, court must release child unless it finds one of five listed circumstances supports detention).

Within the petition, relator asserts that after his counsel requested a record of the detention hearing, respondent replied, “ ‘you don’t have a right to a record’ ” and no record would be made.

**Held:** Petition denied.

**Memorandum Opinion:** The Family Code requires that all juvenile judicial proceedings be recorded, “except detention hearings.” TEX. FAM. CODE ANN. § 54.09 (Vernon 2014); see In re M.R.R., Jr., 2 S.W.3d 319, 327 (Tex.App.—San Antonio 1999, no pet.). However, “[u]pon request of any party, a detention hearing shall be recorded.” TEX. FAM. CODE ANN. § 54.09 (emphasis added). From the petition, we cannot tell whether the trial court conducted an evidentiary hearing. See id. § 54.01(c) (Vernon 2014) (providing, at detention hearing, court may consider “written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses”). Nor can we tell whether relator timely and properly requested that the detention hearing be recorded. See Benjamin v. Benjamin, No. 01–10–01003–CV, 2013 WL 4507848, at \*2 (Tex.App.—Houston [1st Dist.] Aug. 22, 2013, no pet.) (mem.op.) (citing Nabelek v. Dist. Attorney of Harris Cnty., 290 S.W.3d 222, 231 (Tex.App.—Houston [14th Dist.] 2005, pet. denied)).

**Conclusion:** We deny the petition.