



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: KEVIN BOYER,
Relator.

§
§ No. 08-14-00182-CR
§ AN ORIGINAL PROCEEDING
§ IN MANDAMUS
§
§

MEMORANDUM OPINION

Relator, Kevin Boyer, filed a prose petition for writ of mandamus in which he complains that Hon. Richard A. Roman, formerly sitting as Judge of the 346th District Court of El Paso County, denied Relator’s prose motion for post-conviction DNA testing under Texas Code of Criminal Procedure Chapter 64. *See* TEX.CODE CRIM.PROC.ANN. art. 64.01-64.05(West Supp. 2013). Relator asserts the State seized evidence, specifically tennis shoes and a jersey, which contains biological material.

Relator presents no statement of facts or argument in his petition. *See* TEX.R.APP.P. 52.3(g), (h). In his accompanying affidavit, Appellant avers that he served his “Chapter 64 Motion” on the 346th District Court of El Paso, Texas on March 10, 2014. No copy of Relator’s motion for forensic DNA testing was presented to the Court. Relator has not filed a copy of Respondent’s order denying Relator’s motion for DNA testing. *See* TEX.R.APP.P. 52.3(k)(1)(A).

To be entitled to mandamus relief, Relator must demonstrate that the act he seeks to compel is ministerial and that he does not have an adequate remedy at law. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals*, 236 S.W.3d 207, 210 (Tex.Crim.App. 2007)(orig. proceeding). Article 64.05 of the Texas Code of Criminal Procedure provides that an appeal under Chapter 64 is to a court of appeals in the same manner as an appeal of any other non-capital criminal matter. TEX.CODE CRIM.PROC.ANN. art. 64.05 (West 2006). Because Relator has an adequate remedy at law, he is not entitled to mandamus relief. Accordingly, Relator's petition for writ of mandamus is denied.

August 6, 2014

ANN CRAWFORD McCLURE, Chief Justice

Before McClure, C.J., Rivera, and Rodriguez, JJ.

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