



In The
Eleventh Court of Appeals

No. 11-12-00007-CR

IN RE DANIEL VASQUEZ DOMINGUEZ

Original Mandamus Proceeding

MEMORANDUM OPINION

Relator, Daniel Vasquez Dominguez, has filed a petition for writ of mandamus complaining of the Hon. Lee Hamilton, judge of the 104th District Court of Taylor County, in connection with his request for a free appellate record. We deny the petition for writ of mandamus.

Relator is seeking a free appellate record in criminal proceedings that occurred in 2006 or earlier. Thus, relator is seeking a free record in criminal appellate proceedings that have concluded. An indigent criminal defendant is not entitled, either as a matter of equal protection or of due process, to a free record of prior proceedings for use in pursuing postconviction relief. *United States v. MacCollom*, 426 U.S. 317, 322-23 (1976); *In re Trevino*, 79 S.W.3d 794, 796 (Tex. App.—Corpus Christi 2002, orig. proceeding); *Escobar v. State*, 880 S.W.2d 782, 783 (Tex. App.—Houston [1st Dist.] 1993, order). To obtain a free record for use in a postconviction proceeding, a relator must show that the subsequent proceeding is not frivolous by making a

specific showing of the issues to be raised and a specific need for the record to demonstrate the right to postconviction relief. See *In re Coronado*, 980 S.W.2d 691, 693 (Tex. App.—San Antonio 1998, orig. proceeding); *Eubanks v. Mullin*, 909 S.W.2d 574, 576-77 (Tex. App.—Fort Worth 1995, orig. proceeding); *Escobar*, 880 S.W.2d at 783.

Mandamus will issue only to correct a clear abuse of discretion or violation of a duty imposed by law when that abuse cannot be remedied by appeal. *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). Relator has not provided this court with anything to show that a postconviction proceeding would not be frivolous, and he has not shown a specific need for the record. Consequently, relator has failed to demonstrate that he is entitled to a free record from the prior proceedings.

Accordingly, we deny relator's petition for writ of mandamus.

PER CURIAM

January 26, 2012

Do not publish. See TEX. R. APP. P. 47.2(b).

Panel consists of: Wright, C.J.,
McCall, J., and Kalenak, J.