

Deny and Opinion Filed August 25, 2015



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

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No. 05-15-00987-CV

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IN RE HOWARD HOLLAND, Relator

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Original Proceeding from the 422nd Judicial District Court  
Kaufman County, Texas  
Trial Court Cause No. 93042-422

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MEMORANDUM OPINION

Before Justices Francis, Myers, and Schenck  
Opinion by Justice Francis

Relator filed this petition for writ of mandamus requesting that the Court order the trial court to vacate its June 30, 2015 order dismissing his case. Ordinarily, to obtain mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). Mandamus “is not a substitute for and cannot be used to perform the office of an appeal.” *In re State*, No. 05–14–00572–CV, 2014 WL 2049545, at \*1 (Tex. App.—Dallas May 15, 2014); *see also In re Bernson*, 254 S.W.3d 594, 596 (Tex. App.—Amarillo 2008, no pet.). Relator has an adequate remedy by appeal. We deny the petition.

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/Molly Francis/  
MOLLY FRANCIS  
JUSTICE