

DENY; and Opinion Filed May 25, 2017.



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

No. 05-17-00408-CV

IN RE BILLY LEON BAKER, Relator

**Original Proceeding from the 86th Judicial District Court
Kaufman County, Texas
Trial Court Cause No. 31085-86**

MEMORANDUM OPINION

**Before Justices Lang-Miers, Myers, and Boatright
Opinion by Justice Lang-Miers**

In this original proceeding, relator complains that the trial court assessed a \$440 fine and \$194 in court costs against him when revoking his community supervision and ordered the withdrawal of the funds from his inmate trust account without evidence that relator is able to pay the fine and costs. Relator asks this Court to order the trial court to remove the fine and court costs from the judgment revoking community supervision.

Mandamus relief is appropriate in a criminal case only when a relator establishes that (1) he has no adequate remedy at law to redress his alleged harm, and (2) what he seeks to compel is a ministerial act, not a discretionary or judicial decision. *In re Allen*, 462 S.W.3d 47, 49 (Tex. Crim. App. 2015) (orig. proceeding). Relator has not established either requirement here.

First, relator has an adequate remedy at law because the proper method for seeking appellate review of an order of withdrawal of funds from an inmate trust account is by appeal of

the order. *Harrell v. State*, 286 S.W.3d 315, 321 (Tex. 2009) (“[A]ppellate review should be by appeal, as in analogous civil post-judgment enforcement actions.”).

Second, the trial court does not have a ministerial duty to vacate the assessment of the fine and court costs. Legislatively mandated fees and costs may be withdrawn from an inmate’s account without regard to his ability to pay, do not need to be included in the oral pronouncement of sentence or in the written judgment in order to be imposed upon a convicted defendant, and are properly collectable by means of a withdrawal notification regardless of a defendant’s ability to pay. *Snelson v. State*, 341 S.W.3d 582, 585 (Tex. App.—Amarillo 2011, no pet.). Relator has not shown that the trial court abused its discretion in assessing the fine and court costs and ordering their withdrawal from relator’s inmate trust account. Relator is, therefore, not entitled to the relief requested.

Accordingly, we deny relator’s April 21, 2017 petition for writ of mandamus.

/Elizabeth Lang-Miers/

ELIZABETH LANG-MIERS
JUSTICE

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