

Petition for Writ of Mandamus Denied and Memorandum Opinion filed August 19, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00737-CV

IN RE SHANNON LEE SIMON, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS**

MEMORANDUM OPINION

On August 5, 2010, relator filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. In the petition, relator complains of a ruling by the Honorable Randy Wilson, presiding judge of the 157th District Court of Harris County, denying his motion to compel production.

Mandamus is an extraordinary remedy issued at the discretion of the court. *Rivercenter Associates v. Rivera*, 858 S.W.2d 366, 368 (Tex. 1993). Mandamus relief is not an equitable remedy but its issuance is largely controlled by equitable principles. *Id.* One such principle is that equity aids the diligent and not those who slumber on their rights.

Id. Relator's motion to compel was denied on May 27, 2009. He waited over fourteen months to seek mandamus relief.

Excessive and unexplained delay provides grounds to deny mandamus relief. See, e.g., *In re Xeller*, 6 S.W.3d 618, 624 (Tex.App.-Houston [14th Dist.] 1999) (orig. proceeding); *Rivercenter Associates*, 858 S.W.2d at 367-68; *In re Xeller*, 6 S.W.3d at 624. Relator offers no explanation for his delay in seeking mandamus relief, and the record reveals no justification. Mandamus relief is not warranted under these circumstances. See *Bailey v. Baker*, 696 S.W.2d 255, 256 (Tex.App.--Houston [14th Dist.] 1985, orig. proceeding) (leave to file denied where record revealed no explanation for delay in seeking mandamus relief).

Accordingly, we deny relator's petition for writ of mandamus.¹

PER CURIAM

Panel consists of Justices Seymore, Boyce, and Christopher.

¹ Relator's motion for leave to file his petition for writ of mandamus is denied as moot. The requirement of a motion for leave to file an original proceeding was repealed.