

Petition for Writ of Mandamus Denied and Memorandum Opinion filed November 18, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-01105-CR

JAMES EDWARD JACKSON, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
179th District Court
Harris County, Texas
Trial Court Cause No. 894116**

MEMORANDUM OPINION

On November 9, 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. Relator complains that respondent, the Honorable J.M. Wilkinson, presiding judge of the 179th District Court of Harris County, proceeded to adjudicate guilt based on the commission of a new offense and thereby failed to honor the plea agreement.

To be entitled to mandamus relief, a relator must show that he has no adequate remedy at law to redress his alleged harm, and what he seeks to compel is a ministerial act,

not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig.proceeding). The decision to adjudicate guilt rests within the discretion of the trial court and therefore is not a ministerial act. *See Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006). Furthermore, the judgment adjudicating guilt attached to relator's petition reflects relator filed a notice of appeal from that judgment. Relator had the right to appeal from the trial court's decision to adjudicate. *See* Tex. Code Crim. Proc. art. 42.12 § 5(b). Therefore relator has failed to demonstrate he had no adequate remedy at law.

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

PER CURIAM

Panel consists of Justices Seymore, Boyce, and Christopher.

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