

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-11-00499-CV**

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**IN RE ERIC DWAYNE STEVENSON**

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**Original Proceeding**

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**MEMORANDUM OPINION**

On September 8, 2011, Eric Dwayne Stephenson petitioned this Court for a writ of mandamus to compel the trial court to issue a new docket control order in a sexually violent predator commitment case. *See* Tex. R. Civ. P. 190.5(b) (The court must allow additional discovery “regarding matters that have changed materially after the discovery cutoff if trial is set or postponed so that the trial date is more than three months after the discovery period ends.”). Relator requested a stay of the trial scheduled for September 12, 2011. *See* Tex. R. App. P. 52.10.

The discovery period ended June 8, 2011. Relator did not designate an expert witness. The jury failed to reach a verdict at trial. The trial court declared a mistrial on

August 11, 2011, and reset the trial for September 12, 2011. Relator requested a new docket control order to allow designation of an expert witness that had not been previously designated. Counsel for relator explained that relator was changing his trial tactics. On August 23, 2011, the trial court denied Relator's motion for a new docket control order.

Mandamus will issue only to correct a clear abuse of discretion when that abuse cannot be remedied by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004); *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992). After reviewing the mandamus record and petition, we conclude that Relator has failed to establish an abuse of discretion by the trial court for which an appeal would not be an adequate remedy. Accordingly, we deny the petition for writ of mandamus and motion for temporary relief.

PETITION DENIED.

PER CURIAM

Opinion Delivered September 9, 2011

Before McKeithen, C.J., Kreger and Horton, JJ.