



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-16-00113-CR

IN RE ANTHONY JAMES, RELATOR

Original Proceeding

**Arising Out of Proceedings before the 137th District Court
In and For Lubbock County, Texas**

Trial Court No. 2006-411,486-B; Honorable John "Trey" J. McClendon III, Presiding

March 23, 2016

**MEMORANDUM OPINION
ON PETITION FOR WRIT OF MANDAMUS**

Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

Relator, Anthony James, has filed a petition for writ of mandamus in which he names Barbara Sucsy, District Clerk of Lubbock County, as Respondent. He asserts that he filed a *Motion for Reformation Judgement [sic]-Sentence* and a *Motion for Appointment of Counsel* on or about January 5, 2016. According to Relator's petition, he contacted the 137th District Court Coordinator on March 3, 2016, and received a

“generic response” that his documents had been filed but that no action had been taken. Relator concludes his petition with a prayer that the “137th Judicial District of Lubbock County, Texas” take judicial notice of his pending motions and render a decision. He contends he has no adequate remedy at law but does not seek to compel a judge to perform a ministerial duty.

MANDAMUS STANDARD OF REVIEW

Mandamus relief is extraordinary. *In re Braswell*, 310 S.W.3d 165, 166 (Tex. App.—Amarillo 2010, orig. proceeding) (citing *In re Southwestern Bell Telephone Co., L.P.*, 235 S.W.3d 619, 623 (Tex. 2007) (orig. proceeding)). “Mandamus issues only to correct a clear abuse of discretion or the violation of a duty imposed by law when there is no other adequate remedy by law.” *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992) (orig. proceeding) (quoting *Johnson v. Fourth Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985) (orig. proceeding)). To show entitlement to mandamus relief, a relator must satisfy three requirements: (1) a legal duty to perform a nondiscretionary act; (2) a demand for performance; and (3) a refusal to act. *Stoner v. Massey*, 586 S.W.2d 843, 846 (Tex. 1979).

ANALYSIS

This court has the authority to issue writs of mandamus against a judge of a district or county court in our district and all writs necessary to enforce our jurisdiction. TEX. GOV'T CODE ANN. § 22.221(b) (West 2004). In order for Barbara Sucsy to fall within our jurisdictional reach, it must be established that the issuance of the writ of mandamus is necessary to enforce our jurisdiction. *In re Coronado*, 980 S.W.2d 691, 692-93 (Tex. App.—San Antonio 1998, no pet.). Relator does not indicate that he has

an appeal pending in this court nor has he demonstrated that the exercise of our mandamus authority against the Lubbock County District Clerk is necessary and appropriate to enforce our jurisdiction. Accordingly, we have no authority to issue a writ of mandamus against Barbara Sucsy.

Moreover, assuming our jurisdiction was properly invoked, Relator has not complied with the applicable rules of procedure for filing an original proceeding in this court. See TEX. R. APP. P. 52.3. Not only does his petition lack most of the mandatory requirements, it does not include an appendix with certified or sworn copies of the documents that are the subject of his petition. *Id.* at (k)(1)(A). Although we are not unsympathetic to the plight of an inmate's *pro se* status, it does not exempt him from complying with rules of procedure. See *Pena v. McDowell*, 201 S.W.3d 665, 667 (Tex. 2006); *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184-85 (Tex. 1978).

Consequently, Relator's petition for writ of mandamus is denied.

Per Curiam

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