



**In The  
Court of Appeals  
Sixth Appellate District of Texas at Texarkana**

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No. 06-09-00092-CV

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IN RE:  
JOHN JACKSON

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Original Mandamus Proceeding

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Before Morriss, C.J., Carter and Moseley, JJ.  
Memorandum Opinion by Justice Moseley

## MEMORANDUM OPINION

John Jackson has filed a petition for writ of mandamus. In the petition, he asks this Court to order the Rusk County District Clerk to file his civil petition without payment of filing fees (as an indigent) or with partial payment, or with a "payment plan." He argues that to deny all of these requests constitutes nothing less than a violation of his civil rights.

Mandamus is an extraordinary remedy that issues only to correct a clear abuse of discretion or a violation of a duty imposed by law when no other adequate remedy at law is available. *State v. Walker*, 679 S.W.2d 484, 485 (Tex. 1984) (orig. proceeding). This Court has the authority to issue a writ of mandamus in two instances, the first being when it is necessary to enforce this Court's jurisdiction. TEX. GOV'T CODE ANN. § 22.221(a) (Vernon 2004). It is Jackson's burden to properly request and show entitlement to the mandamus relief he requests. *See generally Johnson v. Fourth Dist. Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985) (orig. proceeding).

The second instance in which we have authority to issue a writ of mandamus occurs where it is "against a . . . judge of a district or county court in the court of appeals district; or . . . a judge of a district court who is acting as a magistrate at a court of inquiry . . . in the court of appeals district." TEX. GOV'T CODE ANN. § 22.221(b) (Vernon 2004). Jackson seeks a writ of mandamus against a district clerk. Because the clerk is not a proper party to which mandamus relief may be brought, we dismiss Jackson's petition for writ of mandamus against the Rusk County District Clerk for lack of jurisdiction. *In re Rodriguez*, No. 06-08-00122-CV, 2008 Tex. App. LEXIS 7972 (Tex.

App.—Texarkana Oct. 22, 2008, orig. proceeding) (mem. op.); *In re James*, No. 06-08-00111-CV, 2008 Tex. App. LEXIS 7689 (Tex. App.—Texarkana Oct. 10, 2008, orig. proceeding) (mem. op.).

We deny the petition for writ of mandamus.

Bailey C. Moseley  
Justice

Date Submitted:      October 21, 2009  
Date Decided:        October 22, 2009