



**IN THE
TENTH COURT OF APPEALS**

No. 10-11-00338-CR

IN RE ERIC DALE ANGELO

Original Proceeding

MEMORANDUM OPINION

Eric Dale Angelo, a prison inmate, seeks a writ of mandamus to compel the Honorable F.B. (Bob) McGregor, Jr., Judge of the 66th Judicial District Court, to rule on Angelo's third motion for a free copy of the clerk's and reporters' records. According to Angelo's petition, the trial court has twice previously denied similar motions: once on February 19, 2010 and once on January 27, 2011.

There are procedural problems with this petition including, but not limited to, that the petition was not served on the respondent or the real party in interest, TEX. R. APP. P. 9.5; 52.2. However, we use Rule 2 to look past this and other deficiencies and dispose of Angelo's petition. TEX. R. APP. P. 2.

Angelo has twice asked the trial court for a free record and has twice been denied. A third motion is likely to be denied as well.¹ We hold that, based on the facts of this case, the trial court is not required to repeatedly rule on the same motion. *See In re Birdwell*, 224 S.W.3d 864, 869-870 (Tex. App.—Waco 2007, orig. proceeding) (Gray, C.J., concurring); *In re Bannister*, 216 S.W.3d 555 (Tex. App.—Waco 2007, orig. proceeding) (Gray, C.J., concurring). Accordingly, Angelo’s petition for writ of mandamus is denied.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Petition denied

Opinion delivered and filed September 21, 2011

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[OT06]

¹ A defendant is not entitled to a free copy of the record after exhausting the direct appeal in the absence of a specific, compelling reason. *See In re Strickhausen*, 994 S.W.2d 936, 937 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding); *In re Coronado*, 980 S.W.2d 691, 693 (Tex. App.—San Antonio 1998, orig. proceeding); *Eubanks v. Mullin*, 909 S.W.2d 574, 576-77 (Tex. App.—Fort Worth 1995, orig. proceeding).