



NUMBER 13-12-00618-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE ESTHER NAKITA NGUMA

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Benavides and Perkes
Memorandum Opinion Per Curiam¹**

Relator, Esther Nakita Nguma, filed a petition for writ of mandamus on October 12, 2012, seeking relief from an order denying her motion to recuse the Honorable Letty Lopez, Presiding Judge of the 389th Judicial District Court of Hidalgo County, Texas. We deny the petition for writ of mandamus.

I. STANDARD OF REVIEW

To be entitled to the extraordinary relief of a writ of mandamus, the relator must show that the trial court abused its discretion and that there is no adequate remedy by

¹ See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). The relator has the burden of establishing both prerequisites to mandamus relief, and this burden is a heavy one. *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding).

II. APPLICABLE LAW

Under Texas Rule of Civil Procedure 18a, “[a]n order denying a motion to recuse may be reviewed only for abuse of discretion on appeal from the final judgment,” whereas an order denying a motion to disqualify may be reviewed by mandamus and may be appealed in accordance with other law.” See TEX. R. CIV. P. 18a(j)(1)(A), (2). Accordingly, relator has an adequate remedy by appeal for the denial of her motion to recuse. See *In re Union Pac. Res. Co.*, 969 S.W.2d 427, 429 (Tex. 1998) (orig. proceeding). Because “mandamus is expressly reserved for situations where a relator lacks an adequate remedy by appeal,” the petition for writ of mandamus must be denied. *In re Reece*, 341 S.W.3d 360 (Tex. 2011) (orig. proceeding).

III. CONCLUSION

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that relator has not met her burden to obtain mandamus relief. See *In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 135–36. Accordingly, the petition for writ of mandamus is DENIED. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Delivered and filed this the
15th day of October, 2012.