



**NUMBER 13-13-00508-CR**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE ERNESTO BERLANGA**

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**On Petition for Writ of Mandamus.**

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**MEMORANDUM OPINION**

**Before Justices Benavides, Perkes, and Longoria  
Memorandum Opinion Per Curiam<sup>1</sup>**

Relator, Ernesto Berlanga, proceeding pro se, filed a petition for writ of mandamus on September 20, 2013, through which he seeks to compel the district clerk and trial court to “honor their [granted] motions” to provide relator with free copies of the clerk’s records and trial court records so that relator “may be able to submit an adequate appeal on his behalf.” This Court affirmed relator’s conviction for aggravated assault and his pro se petition for discretionary review is pending at the Texas Court of

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<sup>1</sup> 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).

Criminal Appeals. See *Berlanga v. State*, No. 13-11-00170-CR, 2013 WL 3203110, at \*1 (Tex. App.—Corpus Christi June 20, 2013, pet. filed) (mem. op. not designated for publication).

To be entitled to mandamus relief, relator must establish both that he has no adequate remedy at law to redress his alleged harm, and that what he seeks to compel is a ministerial act not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007). If relator fails to meet both of these requirements, then the petition for writ of mandamus should be denied. See *id.*

It is relator's burden to properly request and show entitlement to mandamus relief. *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) (“Even a pro se applicant for a writ of mandamus must show himself entitled to the extraordinary relief he seeks.”). In addition to other requirements, relator must include a statement of facts supported by citations to “competent evidence included in the appendix or record,” and must also provide “a clear and concise argument for the contentions made, with appropriate citations to authorities and to the appendix or record.” See generally TEX. R. APP. P. 52.3. In this regard, it is clear that relator must furnish an appendix or record sufficient to support the claim for mandamus relief. See *id.* R. 52.3(k) (specifying the required contents for the appendix); R. 52.7(a) (specifying the required contents for the record).

We conclude that relator has failed to meet his burden to establish his right to mandamus relief because his petition for writ of mandamus does not comply with the foregoing requirements. In addition to other deficiencies, relator has not filed a record

or an appendix with his petition. See *id.* R. 52.3(k), 52.7. Further, to the extent that relator seeks mandamus relief against the district clerk, this Court does not have mandamus jurisdiction over district clerks except as necessary to enforce our jurisdiction. See TEX. GOV'T CODE ANN. § 22.221(a), (b) (West 2004); *In re Smith*, 263 S.W.3d 93, 95 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding); *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding); *In re Coronado*, 980 S.W.2d 691, 692 (Tex. App.—San Antonio 1998, orig. proceeding). Relator has not made such a showing in this case.

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 his burden to obtain mandamus relief. See *State ex rel. Young*, 236 S.W.3d at 210. Relator's petition for writ of mandamus is denied. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Do not publish.  
TEX. R. APP. P. 47.2(b).

Delivered and filed this the  
4th day of October, 2013.