



NUMBER 13-21-00416-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE MARCUS ROBERT ARCHER

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Hinojosa and Silva
Memorandum Opinion by Justice Hinojosa¹**

Pro se relator Marcus Robert Archer has filed a petition for writ of mandamus through which he seeks to compel the trial court to rule on relator's motion for nunc pro tunc judgment. Relator contends that he did not receive all of the jail time credit to which he was entitled, and he filed a motion for nunc pro tunc judgment to correct the error, however, the trial court has not ruled on that motion.

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."); *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

To be entitled to mandamus relief, the relator must establish both that the act sought to be compelled is a ministerial act not involving a discretionary or judicial decision and that there is no adequate remedy at law to redress the alleged harm. *In re Meza*, 611 S.W.3d 383, 388 (Tex. Crim. App. 2020) (orig. proceeding); *In re Harris*, 491 S.W.3d 332, 334 (Tex. Crim. App. 2016) (orig. proceeding) (per curiam); *In re McCann*, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding). If the relator fails to meet both requirements, then the petition for writ of mandamus should be denied. *State ex rel. Young v. Sixth Judicial Dist. Ct. of Apps. at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding).

It is the relator's burden to properly request and show entitlement to mandamus relief. See *State ex rel. Young*, 236 S.W.3d at 210; *In re Pena*, 619 S.W.3d 837, 839 (Tex. App.—Houston [14th Dist.] 2021, orig. proceeding); see also *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) (per curiam) (“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, the relator must include a statement of facts and 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 (governing the form and contents for a petition). The relator must file an appendix and 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).

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that the relator has not established his entitlement to the relief sought. See *In re Harris*, 491 S.W.3d at 334; *In re McCann*, 422 S.W.3d at 704; *State ex rel. Young*, 236 S.W.3d at 210. Relator has failed to (1) include a statement of facts supported by citations to competent evidence included in the appendix or record, (2) provide a clear and concise argument for the contentions made, with appropriate citations to authorities and to the appendix or record, and (3) file an appendix and record sufficient to support the claim for relief. See TEX. R. APP. P. 52.3; *id.* R. 52.3(k). Accordingly, we deny the petition for writ of mandamus.

LETICIA HINOJOSA
Justice

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

Delivered and filed on the
3rd day of December, 2021.