



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: LUIS NAVA III,

Relator.

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No. 08-08-00240-CR

AN ORIGINAL PROCEEDING

IN MANDAMUS

MEMORANDUM OPINION ON PETITION FOR WRIT OF MANDAMUS

Relator, Luis Nava III, seeks a writ of mandamus to compel the Honorable Patrick Garcia, of the 384th District Court to return him from the custody of the Institutional Division of the Texas Department of Criminal Justice to the El Paso County Jail. Relator contends that the trial court has acted in violation of Article 42.09 of the Texas Code of Criminal Procedure by allowing him to be sent to the Institutional Division of the Texas Department of Criminal Justice instead of serving the pendency of his appeal in the El Paso County Jail.

In order to establish a right to relief through a writ of mandamus, a realtor must establish: (1) no other adequate remedy at law is available; and (2) that the act he seeks to compel is ministerial. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals*, 236 S.W.3d 207, 210 (Tex.Crim.App.2007). An act is ministerial if it does not involve the exercise of any discretion. *State ex rel. Hill v. Court of Appeals for the Fifth District*, 34 S.W.3d 924, 927 (Tex.Crim.App.

2001). Based on the petition, supplements, and record provided, Mr. Flores has not demonstrated he is entitled to mandamus relief. *See* TEX.R.APP.P.52.8.

August 21, 2008

ANN CRAWFORD McCLURE, Justice

Before Chew, C.J., McClure, and Carr, JJ.

(Do Not Publish)