

COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

IN RE: ERIC FLORES,

Relator.

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No. 08-08-00278-CR

AN ORIGINAL PROCEEDING

IN MANDAMUS

**MEMORANDUM OPINION ON PETITION FOR WRIT OF MANDAMUS**

Relator, Eric Flores, has filed a *pro se* petition for writ of mandamus asking this Court to order the Hon. Alma Trejo, Judge of the El Paso Criminal Court at Law No. 1, to allow him to present, “non-frivolous legal claims in his writ of habeas corpus to challenge his illegal confinement.”

In order to obtain relief through a writ of mandamus, a relator must establish: (1) no other adequate remedy at law is available and (2) that the act he seeks to compel is ministerial. *Dickens v. Court of Appeals For Second Supreme Judicial Dist. of Texas*, 727 S.W.2d 542, 548 (Tex.Crim.App. 1987). 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). However, a so-called discretionary function may become ministerial when the facts and circumstances dictate but one rational decision. *Buntion v. Harmon*, 827 S.W.2d 945, 948 n.2 (Tex.Crim.App. 1992).

Based upon the petition and limited record provided to us, Flores has not established that he does not have adequate remedies at law or that the acts he seeks to compel were ministerial. *See*

TEX.R.APP.P. 52.7. Therefore, Flores has failed to demonstrate he is entitled to the relief he has requested. Accordingly, we deny mandamus relief.

October 16, 2008

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ANN CRAWFORD McCLURE, Justice

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

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