

COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: MANUEL RUBEN GARCIA, §
Relator. § No. 08-09-00087-CR
§ AN ORIGINAL PROCEEDING
§ IN MANDAMUS
§
§

MEMORANDUM OPINION ON PETITION FOR WRIT OF MANDAMUS

Manuel Ruben Garcia has filed a *pro se* petition for writ of mandamus requesting this Court to order the Judge of the 143rd District Court of Ward County, Texas to “initiate process” regarding Relator’s Motion for Forensic DNA Testing pursuant to Chapter 64 of the Texas Code of Criminal Procedure.

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. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 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 and record provided, Mr. Garcia has not demonstrated he is entitled to mandamus relief. *See* TEX.R.APP.P. 52.8. We therefore deny Relator's request.

GUADALUPE RIVERA, Justice

May 27, 2009

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

(Do Not Publish)