



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

	§	
	§	
	§	No. 08-12-00314-CR
	§	
IN RE: CHRISTOPHER DAVID RYAN,	§	AN ORIGINAL PROCEEDING
	§	
Relator.	§	IN MANDAMUS
	§	
	§	
	§	
	§	

MEMORANDUM OPINION

Relator, Christopher David Ryan, seeks a writ of mandamus compelling the Honorable Pedro Gomez, Judge of the 112th District Court of Upton County, to rule on Relator's request for appointment of counsel and forensic DNA testing pursuant to article 64.01 of the Texas Code of Criminal Procedure. TEX. CODE CRIM. PROC. ANN. art. 64.01(c) (West Supp. 2012). To be entitled to mandamus relief, Relator must demonstrate that he does not have an adequate remedy at law and 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).

Because Relator failed to append to his petition a copy of his motion for forensic DNA testing and his affidavit containing statements of fact in support of the motion, we cannot conclude that the trial court abused its discretion or failed to perform a ministerial duty by failing to rule on

Relator's motion. TEX. CODE CRIM. PROC. ANN. art. 64.01(a-1) (West Supp. 2012). Moreover, since the filing of Relator's petition, Respondent has issued an order appointing counsel to assist Relator until completion of any post-trial proceedings. As Relator has obtained the relief he sought in the form of appointment of counsel, this basis for seeking mandamus relief is now moot. Because we conclude that Relator is not entitled to mandamus relief, the petition for writ of mandamus is denied.

GUADALUPE RIVERA, Justice

March 13, 2013

Before McClure, C.J., Rivera, and Antcliff, JJ.
Antcliff, J., not participating

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