



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: § No. 08-18-00186-CV
BENJAMIN JOSEPH GUTIERREZ, § AN ORIGINAL PROCEEDING
RELATOR. § IN MANDAMUS
§
§

MEMORANDUM OPINION

Relator, Benjamin Joseph Gutierrez, filed a mandamus petition against the Honorable Guadalupe Rivera, Presiding Judge of the 383rd District Court of El Paso County, Texas, to challenge an order denying Relator's motion to disqualify opposing counsel in cause number 2010CM094 styled *In the Interest of A.N.G., a Child*. The petition for writ of mandamus is denied.

Generally, mandamus relief is appropriate only to correct a clear abuse of discretion or to compel the performance of a ministerial duty, and where the relator has no adequate remedy by appeal. *In re Reece*, 341 S.W.3d 360, 364 (Tex. 2011)(orig. proceeding); *In re Prudential Insurance Company of America*, 148 S.W.3d 124, 135-36 (Tex. 2004)(orig. proceeding). The burden is on relator to show it is entitled to mandamus relief. *See In re Ford Motor Company*, 165 S.W.3d 315, 317 (Tex. 2005)(orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992)(orig. proceeding). After reviewing the mandamus petition, we conclude that Relator has failed to show he is entitled to mandamus relief. Accordingly, we deny the petition for writ of

mandamus.

October 24, 2018

YVONNE T. RODRIGUEZ, Justice

Before McClure, C.J., Rodriguez, and Palafox, JJ.