

**DENY; and Opinion Filed December 4, 2018.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-18-01370-CV**

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**IN RE PETER SWART, Relator**

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**Original Proceeding from the 256th Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. DF-16-24538**

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**MEMORANDUM OPINION**

Before Justices Bridges, Brown, and Boatright  
Opinion by Justice Brown

In this original proceeding, relator seeks review of the denial of his motion to dismiss for forum non conveniens. To be entitled to mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). A court abuses its discretion if its decision is arbitrary, unreasonable, or without reference to guiding principles. *In re Pirelli Tire, L.L.C.*, 247 S.W.3d 670, 679 (Tex. 2007). An adequate remedy by appeal does not exist when a motion to dismiss for forum non conveniens is erroneously denied. *Id.* at 676. As such, mandamus relief is available from the denial of a motion to dismiss based on forum non conveniens. *In re Bridgestone Ams. Tire Operations, LLC*, 459 S.W.3d 565, 569 (Tex. 2015) (orig. proceeding).

Based on the record before us, we conclude relator has not shown a clear abuse of discretion. Accordingly, we deny relator’s petition for writ of mandamus. *See* TEX. R. APP. P.

52.8(a) (the court must deny the petition if the court determines relator is not entitled to the relief sought).

/Ada Brown/  
ADA BROWN  
JUSTICE

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