

DENY and Opinion Filed October 25, 2022



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

No. 05-22-01087-CV

IN RE LARRY BLAKE WASHINGTON, Relator

**Original Proceeding from the 468th Judicial District Court
Collin County, Texas
Trial Court Cause No. 468-55854-2017**

MEMORANDUM OPINION

Before Chief Justice Burns, Justice Partida-Kipness, and Justice Smith
Opinion by Chief Justice Burns

Relator is a pro se father who is a party to a custody dispute, and he has filed this mandamus action to challenge the denial of a hearing on his motion to recuse.

Entitlement to mandamus relief requires a relator to show that the trial court clearly abused its discretion and that he lacks an adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). “An order denying a motion to recuse may be reviewed only for abuse of discretion on appeal from the final judgment.” TEX. R. CIV. P. 18a(j)(1)(A). Thus, “mandamus is not available for the denial of a motion to recuse.” *In re McKee*, 248 S.W.3d 164, 165 (Tex. 2007) (orig. proceeding). This is because the denial “is reviewable on appeal from the final judgment.” *In re Smale*, No. 05-17-01466-CV, 2018 WL

360050, at *1 (Tex. App.—Dallas Jan. 11, 2018, orig. proceeding) (mem. op.) (citing, *inter alia*, TEX. R. CIV. P. 18a(j)(1)(A)) (concluding there was an adequate remedy by appeal for complaint in the recusal context concerning a judge’s “removal of the October 3, 2017 hearing from the docket”).

This original proceeding arises from the denial order because relator’s complaint concerns a procedural safeguard (a hearing) that relator maintains was meant to be in place for that order. Relator therefore has an adequate remedy by appealing the final judgment. Accordingly, we deny his petition.

We also strike the petition and supporting appendix due to relator’s failure to redact sensitive information from the appendix. *See* TEX. R. APP. P. 9.9. Finally, we deny relator’s motion to stay as moot.

/Robert D. Burns, III/
ROBERT D. BURNS, III
CHIEF JUSTICE

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