

Opinion issued January 17, 2019



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-19-00010-CV

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IN RE WILLIAM HUGO MIKULIN, Relator

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Original Proceeding on Petition for Writ of Mandamus

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**MEMORANDUM OPINION**

William Hugo Mikulin, acting pro se, has filed a petition for writ of mandamus requesting that we compel the trial court to issue findings of fact and conclusions of law.<sup>1</sup> We deny the petition.

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<sup>1</sup> The underlying case is *Harris County, et al. v. William H. Mikulin*, cause number 2017-79969, in the 129th District Court of Harris County, Texas, the Honorable Michael Gomez presiding.

To be entitled to mandamus relief, a relator must show that the trial court clearly abused its discretion and there is no adequate remedy on appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004). Mikulin has an adequate remedy by appeal because his request for findings of fact and conclusions of law may be raised in his direct appeal pending before this Court in cause number 01-18-00739-CV. *See In re Rhodes*, No. 05-18-00818-CV, 2018 WL 4858732, at \*1 (Tex. App.—Dallas Oct. 8, 2018, orig. proceeding) (denying mandamus seeking findings of fact and conclusions of law because relator may raise issue in pending appeal and, thus, had adequate remedy by appeal); *In re Hodges*, No. 10-18-00268-CV, 2018 WL 4011591, at \*1 (Tex. App.—Waco Aug. 22, 2018, orig. proceeding) (same); *In re Morgan*, No. 08–16–00126–CV, 2016 WL 4013777, at \*1 (Tex. App.—El Paso July 27, 2016, orig. proceeding) (same).

The proper remedy for an aggrieved party when there has been a failure of a trial court to file findings of fact and conclusions of law after proper request and the filing of notice that they are past due is, after an appeal has been filed, to request the appellate court to abate the appeal and direct the trial court to correct its error. *See In re Sheshtawy*, 161 S.W.3d 1, 4 (Tex. App.—Houston [14th Dist.] 2003, orig. proceeding); *Zieba v. Martin*, 928 S.W.2d 782, 786 (Tex. App.—Houston [14th Dist.] 1996, no writ).

Accordingly, we deny the petition for writ of mandamus.

**PER CURIAM**

Panel consists of Justices Keyes, Higley, and Landau.