

**Petition for Writ of Mandamus Dismissed in Part; Denied in Part; and
Memorandum Opinion filed January 25, 2011.**



In The

Fourteenth Court of Appeals

NO. 14-11-00029-CV

IN RE JOSEPH A. HEARN, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
61st District Court
Harris County, Texas
Trial Court No. 2010-12915**

MEMORANDUM OPINION

On January 13, 2011, Relator, Joseph A. Hearn, filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann §22.221 (Vernon 2004); *see also* Tex. R. App. P. 52.1. Relator requests we compel the District Clerk of Brazoria County, Texas, Rhonda Barchak, to issue citation and service of process upon the defendant in his suit filed September 9, 2010, in the 23rd District Court of Brazoria County, Texas, styled \$34,895.79 *v. the State of Texas*. Relator also requests we compel the Honorable Ben Hardin, presiding judge of the 23rd District Court of Brazoria County, Texas to take “dispositive action upon the suit.”

This Court's mandamus jurisdiction is governed by section 22.221 of the Texas Government Code. Section 22.221 expressly limits the mandamus jurisdiction of the courts of appeals to: (1) writs against a district court judge or county court judge in the court of appeals' district, and (2) all writs necessary to enforce the court of appeals' jurisdiction. Tex. Gov't Code Ann. § 22.221 (Vernon 2004). Because the petition for writ of mandamus requesting we compel citation and service is directed toward a district clerk and is not necessary to enforce this court's jurisdiction, we have no jurisdiction. *See* Tex. Gov't Code Ann. § 22.221(b)(1). Accordingly, the petition for writ of mandamus is ordered dismissed in part.

Regarding Judge Hardin, relator does not identify the act he seeks to compel. To be entitled to mandamus relief, a relator must show that he has no adequate remedy at law to redress his alleged harm, and what he seeks to compel is a ministerial act, not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig.proceeding). Accordingly, we deny relator's petition for writ of mandamus in part.

PER CURIAM

Panel consists of Justices Brown, Boyce, and Jamison.