

Petition for Writ of Mandamus Denied and Memorandum Opinion filed February 24, 2011.



In The

Fourteenth Court of Appeals

NO. 14-11-00116-CR

NO. 14-11-00117-CR

IN RE LEROY EUGENE JOHNSON, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS**

MEMORANDUM OPINION

On February 11, 2011, relator Leroy Eugene Johnson filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. §22.221; *see also* Tex. R. App. P. 52. In the petition, relator asks this court to compel the Honorable Caprice Cosper, presiding judge of the 339th District Court of Harris County, to ensure that the State is in compliance with article 64.02 of the Code of Criminal Procedure.

Relator filed motions for DNA testing, which were denied. He appealed those motions to this court in cause numbers 14-10-01247-CR and 14-10-01248-CR. He contends the State did not comply with article 64.02 of the Code of Criminal Procedure.

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). Relator can raise the issue of alleged noncompliance with chapter 64 in his appeal. Because relator has an adequate remedy at law, we have no authority to issue writ of mandamus. Accordingly, we deny relator's petition for writ of mandamus.

PER CURIAM

Panel consists of Justices Anderson, Frost, and McCally.

Do Not Publish — TEX. R. APP. P. 47.2(b).