

Petition for Writ of Mandamus Denied and Opinion filed October 20, 2016.



In The

Fourteenth Court of Appeals

NO. 14-16-00813-CV

IN RE DAVID HABIB GHAZVINI, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
127th District Court
Harris County, Texas
Trial Court Cause No. 2014-74177**

MEMORANDUM OPINION

On October 11, 2016, relator David Habib Ghazvini filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221 (West 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this court to compel the Honorable R. K. Sandill of the 127th District Court of Harris County to grant relator a jury trial. Relator argues that the trial court abused its discretion by

denying his demand for a jury trial that he alleges he demanded on March 7, 2016. Relator has not provided this court with an appendix or a record.

Relator's petition states that the case was tried by the court on September 16, 2016. Presumably, the trial court has already or will soon issue a final judgment based on its findings in this trial.

To obtain mandamus relief, a relator generally must show both that the trial court clearly abused its discretion and that relator has no adequate remedy by appeal. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). Except in unusual circumstances, not applicable here, mandamus relief is not available after a final judgment has been issued because relator then has an adequate remedy by direct appeal. *See In re Esparza*, No. 14-16-00748-CV, slip op. (Tex. App.—Houston [14th Dist.], Oct. 13, 2016, orig. proceeding) (mem. op.); *In re Energy Transfer Fuel, L.P.*, 298 S.W.3d 348, 351 (Tex. App.—Tyler 2009, orig. proceeding); *In re Dixon*, 12-16-00133-CV, 2016 WL 5115559, at *2 (Tex. App.—Tyler Sept. 21, 2016, orig. proceeding) (mem. op.) (holding that relator will have adequate remedy by appeal once the trial court signs an order disposing of the remaining claims and the judgment then becomes final).

Relator has not shown that an appeal of the final judgment will be inadequate.

Additionally, as the party seeking relief, relator has the burden of providing this court with a sufficient record to establish his right to mandamus relief. *See Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992); Tex. R. App. P. 52.7(a)(1)

(relator must file with petition “a certified or sworn copy of every document that is material to the relator's claim for relief and that was filed in any underlying proceeding”).

Relator has not provided this court with any record, much less one sufficient to show that he is entitled to mandamus relief.

For these reasons, we deny relator’s petition for writ of mandamus.

PER CURIAM

Panel consists of Justices Jamison, McCally, and Wise.