

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-08-337 CV**

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**IN RE ROB L. NEWBY**

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**Original Proceeding**

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**MEMORANDUM OPINION**

Rob L. Newby filed a petition for writ of mandamus through which he seeks to compel the district court to grant permission for Newby to file a suit notwithstanding his status as a vexatious litigant. *See* TEX. CIV. PRAC. & REM. CODE ANN. §11.102 (Vernon 2002). The transmittal letter Newby provided with the petition stated that the claims were “distinct and separate from any other suit previously filed by me although it addresses similar facts, occurring at later dates.” In his petition to this Court, Newby states that the suit he wishes to file seeks redress for denial of access to the courts and is based upon the law library supervisor’s delay in mailing Newby’s brief in Appeal No. 13-07-00613 CV, which Newby claims caused the brief to be refused as untimely filed. The mandamus record does not

establish that Newby lost his appeal in that cause number because his brief was not filed by the deadline.

To obtain mandamus relief, a relator must show that the district court clearly abused its discretion and that the relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004). Relator has not shown an abuse of discretion by the district court in refusing to grant leave to file the petition submitted by Newby. Accordingly, the petition for writ of mandamus is denied.

PETITION DENIED.

PER CURIAM

Opinion Delivered October 2, 2008

Before Gaultney, Kreger, and Horton, JJ.