



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 02-13-00372-CV**

IN RE JEFFREY CHARLES MANN

RELATOR

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ORIGINAL PROCEEDING

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**MEMORANDUM OPINION<sup>1</sup>**

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We have considered relator Jeffrey Charles Mann's Application for Writ of Mandamus, relator's Addendum/Supplement to Application for Writ of Mandamus, the State's response to relator's mandamus petition, relator's reply to the State's response, and the State's response to relator's reply. We are compelled to deny the mandamus petition as moot.

In relator's mandamus petition, he contends that in relation to several 2003 convictions, a Denton County district court ordered all non-contraband property

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<sup>1</sup>See Tex. R. App. P. 47.4, 52.8(d).

that the State had seized to be returned to him. Relator asks this court to order the district court to enforce its order requiring the return of the property.

We confirmed that on June 6, 2003, the trial court entered an order that stated in part, “It is hereby **ORDERED** and **DECREED** that all non-contraband evidence in the above styled and numbered causes shall be released to the designated agent of Jeffrey Charles Mann.” Therefore, we ordered the State to respond to relator’s petition. In its response, the State represented that “all of the property” at issue has been quite recently destroyed and that “no property remain[s].”<sup>2</sup> In relator’s reply brief, he expresses disagreement with many of the statements contained in the State’s response, but he appears to concede that the property has been permanently destroyed.

Relator’s sole requested relief in his mandamus petition—the enforcement of a plea bargain agreement<sup>3</sup> and order to achieve the return of his property—now appears to be impossible. Thus, we must conclude and are constrained to

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<sup>2</sup>Relator filed his mandamus petition in this court on October 22, 2013. The documents attached to relator’s petition and to the State’s response establish that since 2003, relator made multiple fruitless attempts to retrieve the property that the State seized from him in 2002. The Denton County District Attorney’s office concedes that it became aware of relator’s mandamus petition on October 23, 2013. Nonetheless, the State’s response alleges that the police destroyed the property on October 30, 2013. The State asserts that the police believed that relator had no active appeals or writs pending, and the State therefore represents that the destruction of the property was “entirely . . . coinciden[tal]” with the timing of the filing of relator’s mandamus petition.

<sup>3</sup>The State disputes whether the return of property was a condition of relator’s plea bargain.

hold that relator’s mandamus petition is moot. See *In re HEB Grocery Co.*, No. 14-10-00270-CV, 2010 WL 1790881, at \*1 (Tex. App.—Houston [14th Dist.] May 6, 2010, orig. proceeding [mand. denied]) (mem. op.) (explaining that an “issue may be moot if it becomes impossible for the court to grant effectual relief for any reason”); *A Am. Stamp & Novelty Mfg. Co. v. Wettman*, 658 S.W.2d 241, 243 (Tex. App.—Houston [1st Dist.] 1983, orig. proceeding) (“A writ of mandamus will not issue if . . . the ultimate object sought to be accomplished is impossible of attainment. . . . Under such circumstances, the courts have considered that the subject matter is moot and have refused to order the issuance of a writ of mandamus.”); see also *Holcombe v. Fowler*, 118 Tex. 42, 44, 9 S.W.2d 1028, 1028 (1928) (orig. proceeding) (“The rule is an elementary one that a writ of mandamus will not issue if for any reason it would be useless or unavailing.”).

For these reasons, we deny relator’s petition for a writ of mandamus as moot. See Tex. R. App. P. 52.8(a), (d).<sup>4</sup>

PER CURIAM

PANEL: LIVINGSTON, C.J.; DAUPHINOT and GARDNER, JJ.

DELIVERED: December 12, 2013

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<sup>4</sup>We also deny all pending motions filed by relator. We grant the State’s motion for leave to file its response to relator’s reply brief.