

NO. 07-05-0432-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL C  
NOVEMBER 30, 2005

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IN RE ERASMO GONZALES, RELATOR

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Before QUINN, C.J., and REAVIS and HANCOCK, JJ.

**MEMORANDUM OPINION**

Erasmio Gonzales petitions the court for a writ of mandamus requesting that we order the trial court to set aside an allegedly void judgment of conviction. We deny the petition.

Mandamus issues only to correct a clear abuse of discretion when there is no other adequate remedy by law. In re Nolo Press/Folk Law, Inc., 991 S.W.2d 768, 776 (Tex. 1999). As Gonzales challenges his incarceration based on an allegedly void conviction, he may obtain the relief sought by filing an application for writ of habeas corpus. See TEX. CODE CRIM. PROC. ANN. arts. 11.01, 11.07 (Vernon 2005). Having a legal remedy available to him, Gonzales has not satisfied the prerequisites for obtaining mandamus relief. See Ater v. Eighth Court of Appeals, 802 S.W.2d 241, 243 (Tex.Crim.App. 1991) (holding that

mandamus relief is unavailable when applicant's attempt to vacate his felony conviction could be remedied through a habeas proceeding).

Accordingly, we deny the petition.

Mackey K. Hancock  
Justice