



**In The  
Court of Appeals  
Sixth Appellate District of Texas at Texarkana**

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No. 06-08-00111-CV

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IN RE:  
DELVIN DARNELL JAMES

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Original Mandamus Proceeding

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Before Morriss, C.J., Carter and Moseley, JJ.  
Memorandum Opinion by Justice Moseley

## MEMORANDUM OPINION

Delvin Darnell James filed a petition for writ of mandamus complaining of the Harrison County District Clerk's alleged refusal to respond to his motions for a free appellate record, and failure to provide the same.

Mandamus is an extraordinary remedy that issues only to correct a clear abuse of discretion or a violation of a duty imposed by law when no other adequate remedy by law is available. *State v. Walker*, 679 S.W.2d 484, 485 (Tex. 1984). This Court has the authority to issue a writ of mandamus in two instances, the first being when it is necessary to enforce this Court's jurisdiction. TEX. GOV'T CODE ANN. § 22.221(a) (Vernon 2004). It is James's burden to properly request and show entitlement to the mandamus relief he requests. *See generally Johnson v. Fourth District Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985) (orig. proceeding). James does not claim the existence of, and does not attach evidence of, an appealable order or notice of appeal. Thus, James has not made a showing that the writ of mandamus is necessary to enforce our jurisdiction.

The second instance in which we have authority to issue a writ of mandamus occurs where it is "against a judge of a district or county court in the court of appeals district; or a judge of a district court acting as a magistrate at a court of inquiry in the court of appeals district." TEX. GOV'T CODE ANN. § 22.221(b) (Vernon 2004). James seeks a writ of mandamus against a district clerk. Because the clerk is not a proper party against which mandamus relief may be brought in this Court, we deny James's petition for writ of mandamus against the Harrison County District Clerk for lack

of jurisdiction. *In re Phillips*, No. 06-07-00057-CV, 2007 WL 1202773 (Tex. App.—Texarkana Apr. 25, 2007, no pet.) (mem. op., not designated for publication).

We deny the petition for writ of mandamus.

Bailey C. Moseley  
Justice

Date Submitted:      October 9, 2008  
Date Decided:        October 10, 2008