



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

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No. 06-08-00122-CV

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IN RE: TRANSITO JOSE RODRIGUEZ

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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

Transito Jose Rodriguez filed a petition for writ of mandamus complaining of the Gregg County District Clerk's alleged failure to issue "any legal notices" regarding an application for habeas corpus relief filed by Rodriguez on September 4, 2008. Rodriguez has presented nothing in the way of a record to this Court.

Mandamus is an extraordinary remedy that issues only to correct a clear abuse of discretion or 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) (orig. proceeding). 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 Rodriguez's burden to properly request and show entitlement to the mandamus relief he requests. *See generally Johnson v. Fourth Dist. Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985) (orig. proceeding).

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 who is 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). Rodriguez seeks a writ of mandamus against a district clerk. Because the clerk is not a proper party to which mandamus relief may be brought, we dismiss Rodriguez's petition for writ of mandamus against the Gregg County District Clerk for lack of jurisdiction. *In re James*, No. 06-08-00111-CV, 2008 Tex. App. LEXIS 7689 (Tex.

App.—Texarkana Oct. 10, 2008, orig. proceeding) (mem. op.); *In re Phillips*, No. 06-07-00057-CV, 2007 Tex. App. LEXIS 3128 (Tex. App.—Texarkana Apr. 25, 2007, orig. proceeding) (mem. op.).

We deny the petition.

Bailey C. Moseley  
Justice

Date Submitted:      October 21, 2008  
Date Decided:        October 22, 2008