



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

No. 06-10-00139-CR

IN RE: BENJAMIN WAYNE MCCOIN

Original Mandamus Proceeding

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

MEMORANDUM OPINION

Benjamin Wayne McCoin has filed with the Court a document that McCoin titles a writ of mandamus, by which we infer McCoin petitions this Court for mandamus relief. McCoin's "petition" is eight pages of angry, insulting, and occasionally vulgar attacks upon the trial court and this Court. We are unable to discern any request for relief made in this "petition." McCoin complains of alleged lies on the part of the trial court; a faulty indictment; and generally alleges himself to be innocent.¹

McCoin's "petition" does not comply with Rule 52.3 of the Texas Rules of Appellate Procedure. Just as examples, there is no identification of the parties and no description of why McCoin believes himself entitled to mandamus relief.² Also, McCoin does not include a prayer which "contain[s] a short conclusion that clearly states the nature of the relief sought." TEX. R. APP. P. 52.3(i).

¹McCoin was convicted of attempted capital murder and sentenced to ninety-nine years' incarceration. This Court affirmed his conviction. *McCoin v. State*, 56 S.W.3d 609 (Tex. App.—Texarkana 2001, no pet.).

²Mandamus 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). Due to the nature of this remedy, it is McCoin's burden to properly request and show entitlement to the mandamus relief. *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) ("Even a pro se applicant for a writ of mandamus must show himself entitled to the extraordinary relief he seeks.").

As McCoin has requested no relief, we may grant none. *Horrocks v. Tex. Dep't of Transp.*, 852 S.W.2d 498, 499 (Tex. 1993) (per curiam) (appellate court may only grant relief requested by party). We deny McCoin's petition.

Jack Carter
Justice

Date Submitted: August 3, 2010
Date Decided: August 4, 2010

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