



NUMBER 13-08-567-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE CHRISTINE FRANKS

On Petition for Writ of Mandamus

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Rodriguez and Benavides
Memorandum Opinion Per Curiam¹**

Relator, Christine Franks, filed a petition for writ of mandamus in the above cause on October 3, 2008. The Court requested a response from the real parties in interest, and one was received from real party in interest, Carol Thompson.

Mandamus relief is proper only to correct a clear abuse of discretion when there is no adequate remedy by appeal. See *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-36 (Tex. 2004); *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992). The relator has the burden of establishing both prerequisites to mandamus relief. *In re CSX Corp.*, 124

¹ See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

S.W.3d 149, 151 (Tex. 2003) (orig. proceeding). This burden is a heavy one. See *In re Epic Holdings, Inc.*, 985 S.W.2d 41 (Tex. 1998).

The Court, having examined and fully considered the petition for writ of mandamus and the response thereto, is of the opinion that relator has not shown herself entitled to the relief sought. See *Prudential Ins. Co. of Am.*, 148 S.W.3d at 135-36; see also *LeJune v. Pow-Sang*, No. 01-04-00843-CV, 2006 Tex. App. LEXIS 2740, at *10-17 (Tex. App.–Houston [1st Dist.] 2006, no pet.) (mem. op.), *disapproved on other grounds by In re Lynd Co.*, 195 S.W.3d 682 (Tex. 2006). Accordingly, the petition for writ of mandamus is DENIED. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Memorandum Opinion delivered and
filed this 10th day of November, 2008.