



NUMBER 13-08-00629-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE BILLY J. BASHAM

On Petition for Writ of Mandamus

MEMORANDUM OPINION

Before Justices Rodriguez, Garza, and Vela
Memorandum Opinion¹ Per Curiam

Relator, Billy J. Basham, filed a petition for writ of mandamus on August 11, 2008, seeking relief from an order directing the withdrawal of funds from relator's inmate trust account.² The Court, having examined and fully considered the petition for writ of mandamus, is of the opinion that relator has not shown himself entitled to the relief sought.

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).

² This cause was originally docketed in this Court as a criminal matter. See *In re Basham*, No. 13-08-00478-CR, 2008 Tex. App. LEXIS ___, at *1 (Tex. App.—Corpus Christi Nov. __, 2008, orig. proceeding) (per curiam) (mem. op.).

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 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)

In the instant case, relator has failed to meet this burden. The petition for writ of mandamus and accompanying documents do not establish a clear abuse of discretion by the trial court. See generally TEX. R. APP. P. 52.3(h), 52.3(k), 52.7. Moreover, relator has not demonstrated that he lacks an adequate remedy by appeal. See *In re Johnson*, No. AP-75,898, slip. op. ¶ 22 (Tex. Crim. App. Oct. 29, 2008) (orig. proceeding), available at <http://www.cca.courts.state.tx.us/OPINIONS/HTML/OPINIONINFO.ASP?OPINIONID=17534>; *Reed v. State*, No. 04-07-00004-CV, 2008 Tex. App. LEXIS 5085, at *20 (Tex. App.—San Antonio July 9, 2008, no pet.) (op.); *Abdullah v. State*, 211 S.W.3d 938, 940-41 (Tex. App.—Texarkana 2007, no pet.).

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 13th day of November, 2008.