



**NUMBER 13-08-00631-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE DONALD WAYNE THIELEMAN**

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**On Petition for Writ of Mandamus.**

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**MEMORANDUM OPINION**

**Before Justices Rodriguez, Garza, and Vela  
Per Curiam Memorandum Opinion<sup>1</sup>**

Relator, Donald Wayne Thieleman, filed a petition for writ of mandamus on July 25, 2008, seeking relief from an order directing the withdrawal of funds from relator's inmate trust account.<sup>2</sup> The Court requested and received a response from real party in interest, the State of Texas, by and through the Criminal District Attorney in and for Aransas County, Texas.

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<sup>1</sup> 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).

<sup>2</sup> This cause was originally docketed in this Court as a criminal matter. See *In re Thieleman*, No. 13-08-00450-CR, 2008 Tex. App. LEXIS \_\_\_, at \*1 (Tex. App.—Corpus Christi Nov. 12, 2008, orig. proceeding) (per curiam) (mem. op.).

The Court, having examined and fully considered the petition for writ of mandamus and response thereto, is of the opinion that relator has not shown himself entitled to the relief sought. 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 12th day of November, 2008.