



**NUMBER 13-11-00569-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE BARRY DWAYNE MINNFEE**

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**On Petition for Writ of Mandamus.**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Garza and Benavides  
Memorandum Opinion Per Curiam<sup>1</sup>**

Relator, Barry Dwayne Minnfee, proceeding pro se, filed a petition for writ of mandamus on September 6, 2011.<sup>2</sup> The petition for writ of mandamus appears to

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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> The Court has considered and dismissed or denied numerous other pro se original proceedings or pro se appeals filed by relator. See generally *In re Minnfee*, No. 13-11-00530-CV, 2011 Tex. App. LEXIS \_\_\_ (Tex. App.—Corpus Christi Aug. 24, 2011, orig. proceeding) (mem. op. per curiam); *Minnfee v. Sweetin*, No. 13-11-00152-CV, 2011 Tex. App. LEXIS 4972, at \*\*1–2 (Tex. App.—Corpus Christi June 30, 2011, no pet.) (mem. op. per curiam); *In re Minnfee*, No. 13-11-00399-CV, 2011 Tex. App. LEXIS 4973, at \*\*1–2 (Tex. App.—Corpus Christi June 30, 2011, orig. proceeding) (mem. op. per curiam); *In re Minnfee*, No. 13-11-00368-CV, 2011 Tex. App. LEXIS 4498, at \*\*1–2 (Tex. App.—Corpus Christi June 13, 2011, orig. proceeding) (mem. op. per curiam); *In re Minnfee*, No. 13-11-00360-CV, 2011 Tex. App. LEXIS 4373, at \*\*1–2 (Tex. App.—Corpus Christi June 9, 2011, orig. proceeding) (mem. op. per curiam); *In re Minnfee*, No. 13-09-00429-CV, 2009 Tex. App. LEXIS 5836, at \*\*1–2 (Tex. App.—Corpus Christi

challenge the Matagorda County District Clerk's failure to file two of Minnfee's lawsuit petitions due to his status as a vexatious litigant. See TEX. CIV. PRAC. & REM. CODE ANN. 11.101 (West 2002). Minnfee argues that the failure to file his petitions violates his First Amendment rights under the United States Constitution. See U.S. CONST. amend. I.

To be entitled to mandamus relief, relator must establish both that he has no adequate remedy at law to redress his alleged harm, and that what he seeks to compel is a ministerial act not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007). If relator fails to meet both of these requirements, then the petition for writ of mandamus should be denied. See *id.* It is relator's burden to properly request and show entitlement to 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.”).

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that relator has not met his burden to obtain mandamus relief. See *State ex rel. Young*, 236 S.W.3d at 210. The Matagorda County District Clerk was correct in not filing Minnfee's petitions as there is nothing in the record indicating that he sought permission from the local administrative judge to file his lawsuits. See TEX. CIV. PRAC. & REM. CODE ANN. § 11.102–.103 (West

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July 28, 2009, orig. proceeding) (mem. op. per curiam); *In re Minnfee*, No. 13-09-00268-CV, 2009 Tex. App. LEXIS 5030, at \*\*1–2 (Tex. App.—Corpus Christi May 18, 2009, orig. proceeding) (mem. op. per curiam); *In re Minnifee*, No. 13-09-108-CV, 2009 Tex. App. LEXIS 4933 (Tex. App.—Corpus Christi Apr. 2, 2009, orig. proceeding) (mem. op. per curiam); *In re Minnfee*, No. 13-09-00108-CV, 2009 Tex. App. LEXIS 1559, at \*1 (Tex. App.—Corpus Christi Feb. 27, 2009, orig. proceeding) (mem. op. per curiam); *In re Minnfee*, No. 13-08-00561-CV, 2008 Tex. App. LEXIS 7946, at \*\*1–2 (Tex. App.—Corpus Christi Oct. 15, 2008, orig. proceeding) (mem. op. per curiam).

2002). Further, Minnfee failed to adequately brief how the failure to file these lawsuits violated his constitutional rights. See TEX. R. APP. P. 38.1(h) (providing that an appellant's brief "must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record."). Accordingly, relator's petition for writ of mandamus is denied. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Delivered and filed the  
5th day of October, 2011.