



NUMBER 13-16-00304-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE RANDALL BOLIVAR

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Justices Benavides, Perkes, and Longoria
Memorandum Opinion Per Curiam¹**

Relator Randall Bolivar, proceeding pro se, filed a petition for writ of mandamus in the above cause on June 6, 2016. April 29, 2011. Relator contends that his conviction for murder is void because the trial court was disqualified to proceed over his case.

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*

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).

v. Sixth Judicial Dist. Ct. of Apps. at Texarkana, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007). If the relator fails to meet both of these requirements, then the petition for writ of mandamus should be denied. See *id.* It is the 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 response thereto, 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. Relator has raised the same issue presented in this original proceeding in a separate appeal currently pending in this Court in our cause number 13-14-00157-CR. Thus, relator has an adequate remedy by appeal. See *In re Lerma*, 144 S.W.3d 21, 25 (Tex. App.—El Paso 2004, orig. proceeding); see also *In re Durham*, No. 09-11-00579-CR, 2011 WL 5389878, at *1 (Tex. App.—Beaumont Nov. 9, 2011, orig. proceeding) (mem. op. per curiam, not designated for publication). Accordingly, we deny relator's petition for writ of mandamus. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Do not publish.
TEX. R. APP. P. 47.2(b).

Delivered and filed the
7th day of June, 2016.