



NUMBER 13-16-00588-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE JOE GONZALES

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

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

Relator Joe Gonzales filed a pro se petition for writ of mandamus in the above cause on October 26, 2016, seeking to compel the Honorable Anne Lorentzen, the District Clerk of Nueces County, Texas, to file relator's pro se motions and set them for hearing.

To be entitled to mandamus relief, the relator must establish both that he has no adequate remedy at law to redress his alleged harm, and that what he seeks to compel

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).

is a purely ministerial act not involving a discretionary or judicial decision. *In re Harris*, 491 S.W.3d 332, 334 (Tex. Crim. App. 2016) (orig. proceeding); *In re McCann*, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding). If the relator fails to meet both of these requirements, then the petition for writ of mandamus should be denied. *State ex rel. Young v. Sixth Jud. Dist. Ct. of Apps. at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007). 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.”).

This Court's original jurisdiction is governed by section 22.221 of the Texas Government Code. See TEX. GOV'T CODE ANN. § 22.221 (West, Westlaw through 2015 R.S.). Section 22.221(b) expressly limits the mandamus jurisdiction of the courts of appeals to writs of mandamus issued against “a judge of a district or county court in the court of appeals' district” or against a “judge of a district court who is acting as a magistrate at a court of inquiry . . . in the court of appeals district.” See *id.* § 22.221(b). We further have the statutory authority to issue “a writ of mandamus and all other writs necessary to enforce the jurisdiction” of this Court. See *id.* § 22.221(a); *In re Richardson*, 327 S.W.3d 848, 851 (Tex. App.—Fort Worth 2010, orig. proceeding); *In re Phillips*, 296 S.W.3d 682, 684 (Tex. App.—El Paso 2009, orig. proceeding). Relator's petition seeks mandamus relief against a district clerk, however, we do not have original jurisdiction against a district clerk unless necessary to enforce our jurisdiction, and relator has not demonstrated that the requested relief is necessary for this purpose. See *generally* TEX. GOV'T CODE ANN. § 22.221; *In re Richardson*, 327 S.W.3d at 851; *In re Phillips*, 296

S.W.3d at 684; *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding).

The Court, having examined and fully considered the petition for writ of mandamus, is of the opinion that relator has not established this Court's jurisdiction over the relief sought. Accordingly, the petition for writ of mandamus is DISMISSED.

PER CURIAM

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

Delivered and filed the
28th day of October, 2016.