



NUMBER 13-16-00634-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE PHILLIP JACKSON

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

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

Relator Phillip Jackson filed a pro se “notice of mandamus” in the above cause on November 21, 2016, and a separate pro se petition for writ of mandamus on November 28, 2016. In both pleadings, relator seeks to compel the trial court to grant (1) relator’s motion for copies of the court reporter’s records, and (2) relator’s motion to proceed in forma pauperis. These matters arise from trial court cause number 11-CR-4056-A in the

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).

28th District Court of Nueces County, and join an appeal from that same cause currently pending in our Court in *Ex Parte Phillip Jackson*, cause number 13-16-00110-CR. In the appeal, the clerk's record and a supplemental clerk's record have been filed. The court reporter has certified that a record was not made of the hearing on relator's writ of habeas corpus "and therefore a record will not and cannot be produced." A reporter's record of a hearing on remand has been filed. Appellant has filed a pro se brief and the State has filed its appellee's brief.

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 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."). In addition to other requirements, the relator must include a statement of facts supported by citations to "competent evidence included in the appendix or record," and must also provide "a clear and concise argument for the contentions made, with appropriate citations to authorities and to the appendix or record." See generally TEX. R. APP. P. 52.3. The relator must furnish an appendix or record sufficient to support the claim for mandamus relief. See *id.* R. 52.3(k)

(specifying the required contents for the appendix); R. 52.7(a) (specifying the required contents for the record).

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that the relator has not met his burden to obtain mandamus relief. *See State ex rel. Young*, 236 S.W.3d at 210. Accordingly, relator's petition for writ of mandamus is denied. *See* TEX. R. APP. P. 52.8(a).

PER CURIAM

Do not publish.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

Delivered and filed the
30th day of November, 2016.