



NUMBER 13-16-00673-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE KEMUEL LINDSEY

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

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

Relator Kemuel Lindsey filed a pro se petition for writ of mandamus in the above cause on December 12, 2016, seeking to compel the trial court, district attorney, district clerk, and others to take various actions regarding relator's article 11.07 application for habeas corpus relief. The relator did not furnish an appendix or record to support his request for relief.

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).

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).

Relator's petition for writ of mandamus fails to meet the foregoing requirements. Moreover, we do not have original jurisdiction against a district clerk or a district attorney unless necessary to enforce our jurisdiction, and relator has not demonstrated that the requested relief is necessary for this purpose. See TEX. GOV'T CODE ANN. § 22.221 (West, Westlaw through 2015 R.S.); *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); *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 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 this
14th day of December, 2016.