



NUMBER 13-17-00660-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE RANDALL STONE

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Contreras and Benavides
Memorandum Opinion by Chief Justice Valdez¹**

By petition for writ of mandamus, pro se relator Randall Stone seeks to vacate an order rendered on October 31, 2017 granting a plea to the jurisdiction filed by Commerce & Industry Insurance. Stone asserts that this order “leaves litigant no avenue of review” and argues that there “can be no law without remedy.”²

¹ See TEX. R. APP. P. 52.8(d) (“When granting relief, the court must hand down an opinion as in any other case,” but 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).

² This petition for writ of mandamus arises from trial court cause number 17-08-81477-A in the 24th District Court of Victoria County, Texas and the respondent is the Honorable Stephen Williams. See *generally* TEX. R. APP. P. 52.2. Relator also has two appeals from this same trial court cause pending in this Court in our appellate cause numbers 13-17-00620-CV and 13-17-00643-CV. In cause number 13-17-

Mandamus is an extraordinary remedy. *In re H.E.B. Grocery Co.*, 492 S.W.3d 300, 302 (Tex. 2016) (orig. proceeding) (per curiam). Mandamus relief is proper to correct a clear abuse of discretion when there is no adequate remedy by appeal. *In re Christus Santa Rosa Health Sys.*, 492 S.W.3d 276, 279 (Tex. 2016) (orig. proceeding). The relator bears the burden of proving both of these requirements. *In re H.E.B. Grocery Co.*, 492 S.W.3d at 302; *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). An abuse of discretion occurs when a trial court's ruling is arbitrary and unreasonable or is made without regard for guiding legal principles or supporting evidence. *In re Nationwide Ins. Co. of Am.*, 494 S.W.3d 708, 712 (Tex. 2016) (orig. proceeding); *Ford Motor Co. v. Garcia*, 363 S.W.3d 573, 578 (Tex. 2012). We determine the adequacy of an appellate remedy by balancing the benefits of mandamus review against the detriments. *In re Essex Ins. Co.*, 450 S.W.3d 524, 528 (Tex. 2014) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 136 (Tex. 2004) (orig. proceeding).

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

00620-CV, relator appeals the October 31, 2017 order granting the plea to the jurisdiction filed by Commerce & Industry Insurance that is the subject of this original proceeding.

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 relator has not shown himself entitled to the relief sought because, inter alia, the petition for writ of mandamus fails to comply with the appellate rules and relator has an adequate remedy by appeal. Accordingly, we DENY the petition for writ of mandamus. See TEX. R. APP. P. 52.8(a).

ROGELIO VALDEZ
Chief Justice

Delivered and filed the
4th day of December, 2017.