



NUMBER 13-19-00101-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE ROGELIO RODRIGUEZ

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Benavides and Hinojosa
Memorandum Opinion by Chief Justice Contreras**

Relator Rogelio Rodriguez filed a petition for writ of mandamus and motion for stay in the above cause on March 11, 2019. Relator seeks to compel the recusal or disqualification of the Honorable Inna Klein, who is presiding over the trial of the underlying case. Relator requests that we stay the trial court proceedings pending resolution of this petition for writ of mandamus. The real party in interest, Will Newton, M.D., has filed a response in opposition to the petition for writ of mandamus and motion to stay.

To obtain relief by writ of mandamus, a relator must establish that an underlying order is void or a clear abuse of discretion and that no adequate appellate remedy exists. *In re Nationwide Ins. Co. of Am.*, 494 S.W.3d 708, 712 (Tex. 2016) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992) (orig. proceeding). 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 at 136. As applicable to this case, the denial of a motion to recuse can be reviewed only on appeal from a final judgment; however, the denial of a motion to disqualify is reviewed by mandamus and may be appealed in accordance with other law. See TEX. R. CIV. P. 18a(j); *In re O'Connor*, 92 S.W.3d 446, 450 (Tex. 2002) (orig. proceeding); *In re Union Pac. Res. Co.*, 969 S.W.2d 427, 428 (Tex. 1998) (orig. proceeding); *In re Wilhite*, 298 S.W.3d 754, 757 (Tex. App.—Houston [1st Dist.] 2009, orig. proceeding).

The Court, having examined and fully considered the petition for writ of mandamus, the record and applicable law, the motion for stay, and the response to the petition for writ of mandamus and motion for stay, is of the opinion that relator has not met his burden to obtain relief. Accordingly, we deny the petition for writ of mandamus and motion for stay without prejudice.

DORI CONTRERAS
Chief Justice

Delivered and filed the
11th day of March, 2019.