



NUMBERS 13-19-00232-CV & 13-19-00233-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE AARON MALONE

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria and Perkes
Memorandum Opinion by Chief Justice Contreras¹**

Relator Aaron Malone, proceeding pro se, filed a petition for writ of mandamus in the above causes on May 20, 2019.² Through this original proceeding, relator seeks to compel the trial court “to apply the doctrine of equitable tolling to suspend the deadline . . . of August 15, 2018 as the limitation period” for relator to respond to a no evidence motion for summary judgment. See TEX. R. CIV. P. 166a(i).

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.”); *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

² These original proceedings arise from trial court cause numbers B-15-1019-CV-2 and B-15-1019-CV-3 in the 343rd District Court of Bee County, Texas and are docketed in our Court respectively as appellate cause numbers 13-19-00232-CV and 13-19-00233-CV.

Mandamus is an extraordinary remedy issued at the discretion of the court. *In re Garza*, 544 S.W.3d 836, 840 (Tex. 2018) (orig. proceeding) (per curiam). 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). A trial court abuses its discretion when it fails to analyze or apply the law correctly or apply the law correctly to the facts. *In re Nationwide*, 494 S.W.3d at 712; *In re H.E.B. Grocery Co.*, 492 S.W.3d 300, 302 (Tex. 2016) (orig. proceeding) (per curiam). 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.

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. Accordingly, we deny the petition for writ of mandamus in each of these causes. See TEX. R. APP. P. 52.8(a).

DORI CONTRERAS
Chief Justice

Delivered and filed the
22nd day of May, 2019.