



NUMBER 13-20-00251-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE RICARDO VALERO

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

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

Relator Ricardo Valero filed a petition for writ of mandamus in the above cause through which he contends that the trial court failed to comply with a ministerial duty to provide relator with copies of a search warrant, the affidavit in support of the search warrant, and an inventory. See TEX. CODE CRIM. PROC. ANN. art. 18.01(b) (stating that “the sworn affidavit setting forth substantial facts establishing probable cause” for a search warrant “becomes public information when the search warrant for which the affidavit was

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. When granting relief, the court must hand down an opinion as in any other case.”); *id.* R. 47.4 (distinguishing opinions and memorandum opinions).

presented is executed”); *id.* art. 18.06(b) (stating that the officer executing a warrant “shall” present a copy of the warrant and a written inventory of the property to be taken pursuant to the warrant to the owner or person in possession of the property).

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) (per curiam); *In re McCann*, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding). If the relator fails to meet both 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) (orig. proceeding).

This Court requested that the real party in interest, the State of Texas, acting by and through Ricardo Rodriguez Jr., the Criminal District Attorney of Hidalgo County, Texas, or any others whose interest would be directly affected by the relief sought, file a response to the petition for writ of mandamus. See TEX. R. APP. P. 52.2, 52.4, 52.8. The State of Texas has now filed a response to the petition for writ of mandamus acknowledging that: (1) the relator has demonstrated that the act sought to be compelled is purely ministerial; (2) the relator has no other adequate legal remedy; and (3) the relator is entitled to be provided with the requested items. However, the State also asserted that the relator, through counsel, has now been provided with copies of the search warrant, the affidavit filed in support of the search warrant, and the written inventory, and that this petition for writ of mandamus has been rendered moot. Therefore, the State requests that we dismiss this original proceeding as moot.

The Court, having examined and fully considered the petition for writ of mandamus, the response filed by the State, and the applicable law, is of the opinion that the petition for writ of mandamus has been rendered moot. *See In re Bonilla*, 424 S.W.3d 528, 534 (Tex. Crim. App. 2014) (orig. proceeding) (collecting cases in which the court of criminal appeals has dismissed petitions for writ of mandamus where “the relief sought had become moot”); *State ex rel. Holmes v. Denson*, 671 S.W.2d 896, 899 (Tex. Crim. App. 1984) (orig. proceeding) (“[W]e hold that there is nothing to mandamus, ergo mandamus does not lie.”); *In re Evans*, 581 S.W.3d 431, 434 (Tex. App.—Texarkana 2019, orig. proceeding) (concluding that the dismissal of a petition for writ of mandamus was “proper” where the dispute was moot); *see also Chacon v. State*, 745 S.W.2d 377, 378 (Tex. Crim. App. 1988) (en banc) (per curiam) (holding that “generally a cause, issue or proposition is or becomes moot when it does not, or ceases to, rest on any existing fact or right”). Accordingly, we dismiss the petition for writ of mandamus as moot.

DORI CONTRERAS
Chief Justice

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

Delivered and filed the
20th day of July, 2020.