



NUMBER 13-21-00005-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE DAVID HERNANDEZ

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Hinojosa and Silva
Memorandum Opinion by Justice Hinojosa¹**

Relator David Hernandez, proceeding pro se, filed a petition for writ of mandamus in the above cause through which he requests that we direct the trial court and Brownsville Police Department to provide him with various materials for relator to utilize in pursuing an appeal of his October 9, 2009 judgment of conviction for murder.

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

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

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 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 Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that relator has not met his burden to obtain relief. Accordingly, we deny the petition for writ of mandamus.

LETICIA HINOJOSA
Justice

Do not publish.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

Delivered and filed on the
12th day of January, 2021.