



NUMBER 13-22-00110-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE STEVE BATTLES

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Justices Longoria, Hinojosa, and Silva
Memorandum Opinion by Justice Silva¹**

Steve Battles has filed a pro se pleading in this Court which we construe as a petition for writ of mandamus. Although his allegations are difficult to discern, Battles appears to request our assistance in obtaining documentation from state court proceedings in Victoria County, Texas, in order for him to pursue an appeal in the United States Court of Appeals for the Fifth Circuit. Given that this matter does not appear to

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).

involve a final, appealable judgment, we liberally construe this pleading as a petition for writ of mandamus. See TEX. R. APP. P. 25.2(a)(2) (discussing a criminal defendant's right to appeal); *Canada v. State*, 547 S.W.3d 4, 10 (Tex. App.—Austin 2017, no pet.) (stating that appellate courts liberally construe pro se pleadings although pro se litigants must still follow the applicable rules and laws).

In a criminal case, to be entitled to mandamus relief, the relator must establish both that the act sought to be compelled is a ministerial act not involving a discretionary or judicial decision and that there is no adequate remedy at law to redress the alleged harm. See *In re Meza*, 611 S.W.3d 383, 388 (Tex. Crim. App. 2020) (orig. proceeding); *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).

It is the relator's burden to properly request and show entitlement to mandamus relief. See *State ex rel. Young*, 236 S.W.3d at 210; *In re Pena*, 619 S.W.3d 837, 839 (Tex. App.—Houston [14th Dist.] 2021, orig. proceeding); see also *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) (per curiam) (“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 and 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

(governing the form and contents for a petition). Further, the relator must file an appendix and record sufficient to support the claim for mandamus relief. See *id.* R. 52.3(k) (specifying the required contents for the appendix); R. 52.7(a) (specifying the required contents for the record).

Article V, Section 6 of the Texas Constitution delineates the appellate jurisdiction of the courts of appeals, and states that the courts of appeals “shall have such other jurisdiction, original and appellate, as may be prescribed by law.” TEX. CONST. art. V, § 6(a). This Court’s original jurisdiction is governed by § 22.221 of the Texas Government Code. See TEX. GOV’T CODE ANN. § 22.221; see also *In re Cook*, 394 S.W.3d 668, 671 (Tex. App.—Tyler 2012, orig. proceeding). In pertinent part, this section provides that we may issue writs of mandamus against certain judges within our district and “mandamus and all other writs necessary to enforce the jurisdiction of the court.” TEX. GOV’T CODE ANN. § 22.221(a); see *id.* § 22.221(b). This Court does not have jurisdiction to issue a writ of mandamus against a district clerk unless it is necessary to enforce our jurisdiction. See *In re Smith*, 263 S.W.3d 93, 95–96 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding); *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding) (per curiam).

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that Battles has not met his burden to obtain relief. First, the petition for writ of mandamus fails to meet the requirements of the appellate rules. See *generally* TEX. R. APP. P. 52.7(a), 52.3. Second, Battles has not shown that the issuance of a writ of mandamus is necessary to enforce our jurisdiction

over an appeal in this Court. See *In re Smith*, 263 S.W.3d at 95–96; *In re Washington*, 7 S.W.3d at 182. Therefore, we deny the petition for writ of mandamus. See TEX. R. APP. P. 52.8.

CLARISSA SILVA
Justice

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

Delivered and filed on the
22nd day of March, 2022.