



NUMBER 13-22-00318-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE JASON OMAR MORENO

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria and Tijerina
Memorandum Opinion by Justice Tijerina¹**

Relator Jason Omar Moreno filed a pro se petition for writ of mandamus seeking to compel the trial court to comply with its ministerial duty to entertain and rule on properly presented pleadings. Relator alleges that the trial court has not ruled on his motion for the appointment of counsel regarding post-conviction DNA testing and his “motion to release information.” See TEX. CODE CRIM. PRO. ANN. art. 39.14 (governing discovery in

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).

criminal cases); *id.* art. 64.01 (governing motions for forensic DNA testing).²

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

² Relator has an appeal currently pending in this Court in our cause number 13-21-00409-CR, *Moreno v State*, and several closed cases. See *In re Moreno*, No. 13-22-00184-CR, 2022 WL 1273312, at *1 (Tex. App.—Corpus Christi—Edinburg Apr. 28, 2022, orig. proceeding) (mem. op., not designated for publication); *In re Moreno*, No. 13-22-00135-CR, 2022 WL 1025145, at *1 (Tex. App.—Corpus Christi—Edinburg Apr. 6, 2022, orig. proceeding) (mem. op., not designated for publication); *Moreno v. State*, No. 13-21-00391-CR, 2022 WL 322561, at *1 (Tex. App.—Corpus Christi—Edinburg Feb. 3, 2022, no pet. h.) (mem. op., not designated for publication); *In re Moreno*, No. 13-21-00226-CR, 2021 WL 3269362, at *1 (Tex. App.—Corpus Christi—Edinburg July 30, 2021, orig. proceeding) (mem. op., not designated for publication); *Moreno v. Thompson*, No. 13-16-00063-CV, 2016 WL 3068241, at *1 (Tex. App.—Corpus Christi—Edinburg May 26, 2016, no pet.) (per curiam) (mem. op.); *In re Moreno*, No. 13-16-00262-CR, 2016 WL 2967990, at *1 (Tex. App.—Corpus Christi—Edinburg May 13, 2016, orig. proceeding) (per curiam) (mem. op., not designated for publication); *Moreno v. State*, 987 S.W.2d 195, 198 (Tex. App.—Corpus Christi—Edinburg 1999, pet. ref'd).

In relator's pending appeal, which arises from the same trial court cause number as this original proceeding, relator filed a notice of appeal regarding the trial court's October 22, 2021 order denying appellant's motion for DNA testing. The clerk's record in the appeal also contains several requests for discovery propounded by relator. Relator is represented by counsel in that appeal. Here, relator neither addresses the pending appeal nor its relationship to this original proceeding.

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).

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. See *In re Meza*, 611 S.W.3d at 388; *In re Harris*, 491 S.W.3d at 334. Accordingly, we deny the petition for writ of mandamus.

JAIME TIJERINA
Justice

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

Delivered and filed on the
20th day of July, 2022.