



NUMBER 13-24-00282-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN RE JORGE ARELLANO

ON PETITION FOR WRIT OF MANDAMUS

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria and Peña
Memorandum Opinion by Justice Longoria¹**

Relator Jorge Arellano² filed a pro se petition for writ of mandamus asserting that:

(1) the trial court lacked authority to sign a February 1, 2024 judgment *nunc pro tunc*

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. 47.1 ("The court of appeals must hand down a written opinion that is as brief as practicable but that addresses every issue raised and necessary to final disposition of the appeal."); *id.* R. 47.4 (explaining the differences between opinions and memorandum opinions).

² Relator has filed this original proceeding under the name of "Jorge Arellano"; however, the judgments at issue in this original proceeding were rendered against "Jorge Arellano a/k/a Ivan Angel Arellano a/k/a Ivan Jorge Arellano a/k/a George James Arellano a/k/a Ivan Meza."

because the error sought to be corrected was judicial rather than clerical in nature; (2) the trial court failed to provide relator with an opportunity to be heard before signing the judgment nunc pro tunc, thus violating relator's due-process right to be heard; (3) the trial court lacked authority to modify relator's sentence once it lost plenary power; and (4) the trial court has not honored the mandate issued by this Court in our appellate cause number 13-07-00356-CR. See *Arellano v. State*, No. 13-07-00356-CR, 2009 WL 942896, at *1 (Tex. App.—Corpus Christi—Edinburg Jan. 8, 2009, pet. ref'd) (mem. op., not designated for publication) (affirming relator's conviction for intoxication manslaughter and intoxication assault); see also *In re Arellano*, No. 13-24-00101-CR, 2024 WL 515459, at *1–4 (Tex. App.—Corpus Christi—Edinburg Feb. 9, 2024, orig. proceeding) (mem. op., not designated for publication). Relator has filed an appeal from the trial court's February 1, 2024 nunc pro tunc judgment which is currently pending in our appellate cause number 13-24-00131-CR.

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 *id.*; *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.”).

The Court, having examined and fully considered the petition for writ of mandamus, the State’s response, the pending appeal, and the applicable law, is of the opinion that relator has not met his burden to obtain relief because he has an adequate remedy at law by way of his pending appeal in our appellate cause number 13-24-00131-CR. Accordingly, we deny the petition for writ of mandamus.

NORA L. LONGORIA
Justice

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

Delivered and filed on the
11th day of June, 2024.