

NO. 12-08-00346-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***IN RE: MICHAEL KENNEDY,
RELATOR***

§

§ ***ORIGINAL PROCEEDING***

§

***MEMORANDUM OPINION
PER CURIAM***

Relator Michael Kennedy seeks a writ of mandamus requiring the trial court to enter a summary judgment in Kennedy's favor in a civil rights action pending in the 369th Judicial District Court of Anderson County, Texas.

Mandamus is an extraordinary remedy and was intended to be available "only in situations involving manifest and urgent necessity and not for grievances that may be addressed by other remedies." *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). For Kennedy to be entitled to relief by mandamus, he must meet two requirements. First, he must show that the trial court clearly abused its discretion. *Id.* Second, he must show that he lacks an adequate remedy at law, such as an ordinary appeal. *See id.* Here, Kennedy requests that we direct the trial court to enter a summary judgment in his favor. However, mandamus cannot be used to tell the trial court how to rule. *See In re Castle Prod. Ltd. P'ship*, 189 S.W.3d 400, 403 (Tex. App.–Tyler 2006, orig. proceeding). Accordingly, the petition for writ of mandamus is ***denied***.

Opinion delivered September 10, 2008.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(PUBLISH)