

NO. 12-14-00265-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*IN RE: CARL WADE CURRY,
RELATOR*

§ *APPEAL FROM THE*

§ *COUNTY COURT OF*

§ *HENDERSON COUNTY, TEXAS*

*MEMORANDUM OPINION
PER CURIAM*

Relator, Carl Wade Curry, has filed a petition for writ of mandamus requesting an order directing the trial court to dismiss two misdemeanor complaints filed on March 25, 2010, and June 14, 2010, respectively. He alleges that he has filed a motion to dismiss the complaints, but the county attorney opposes the motion.¹

To be entitled to mandamus relief in a criminal case, a relator must establish that he has no adequate remedy at law to redress his alleged harm, and what he seeks to compel is a ministerial act, not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding). A defendant seeking to compel the dismissal of a misdemeanor has an adequate remedy at law because he can file a pretrial application for habeas relief in a misdemeanor prosecution. *See* TEX. CODE CRIM. PROC. ANN. art. 11.09 (West 2005). Therefore, Relator cannot satisfy the first prerequisite to mandamus. Accordingly, we *deny* Relator's petition for writ of mandamus.

Opinion delivered September 30, 2014.

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

(DO NOT PUBLISH)

¹ Relator did not file an appendix or a record with his petition. *See* TEX. R. APP. P. 52.3(k); 52.7(a). Consequently, we do not have a copy of any documents pertaining to this proceeding.



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

SEPTEMBER 30, 2014

NO. 12-14-00265-CR

IN RE: CARL WADE CURRY,
RELATOR

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by **CARL WADE CURRY**, who is the relator in Cause No. 2010-0295CC, pending on the docket of the County Court of Henderson County, Texas. Said petition for writ of mandamus having been filed herein on September 11, 2014, and the same having been duly considered, because it is the opinion of this Court that A Writ of Mandamus Should Not Issue, it is therefore **CONSIDERED, ADJUDGED** and **ORDERED** that the said petition for writ of mandamus be, and the same is, hereby **DENIED**.

By *per curiam* opinion.

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