

NO. 12-16-00324-CV
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
JEFFREY DEE CLICK, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Jeffrey Dee Click, acting pro se, filed this original mandamus proceeding complaining of the trial court’s denial of his motion to vacate a judgment of dismissal.¹ We deny the petition.

BACKGROUND

Relator filed a petition for divorce. On September 30, 2016, the trial court signed an order of dismissal. Relator filed a “motion to vacate judgment, and reinstate cause with request for citation by publication.” On October 31, the trial court denied the motion.

PREREQUISITES TO MANDAMUS

Mandamus is an extraordinary remedy. *In re Sw. Bell Tel. Co., L.P.*, 235 S.W.3d 619, 623 (Tex. 2007) (orig. proceeding). A writ of mandamus will issue only when the relator has no adequate remedy by appeal and the trial court committed a clear abuse of discretion. *In re Cerberus Capital Mgmt., L.P.*, 164 S.W.3d 379, 382 (Tex. 2005) (orig. proceeding). The relator has the burden of establishing both of these prerequisites. *In re Fitzgerald*, 429 S.W.3d 886, 891 (Tex. App.—Tyler 2014, orig. proceeding.). “[M]andamus will not issue when the law provides another plain, adequate, and complete remedy.” *In re Tex. Dep’t of Family and Protective Servs.*, 210 S.W.3d 609, 613 (Tex. 2006) (orig. proceeding).

¹ The Respondent is the Honorable Jason A. Ellis, judge of the County Court at Law of Smith County, Texas.

AVAILABILITY OF MANDAMUS

A party seeking mandamus relief must generally bring forward all that is necessary to establish the claim for relief. *See* TEX. R. APP. P. 52. Here, Relator has not furnished this Court with a copy of the trial court's order of dismissal. Thus, he has not provided a complete and adequate record. *See id.* Moreover, Relator fails to demonstrate why any abuse of discretion by the trial court cannot be remedied by an ordinary appeal. Accordingly, Relator has not shown that appeal is an inadequate remedy. *See In re Tex. Dep't of Family and Protective Servs.*, 210 S.W.3d at 613; *see also In re Cerberus Capital Mgmt., L.P.*, 164 S.W.3d at 382. For these reasons, Relator has not established a clear right to mandamus relief. *See In re Fitzgerald*, 429 S.W.3d at 891.

DISPOSITION

Because Relator has not shown that he is entitled to mandamus relief, we *deny* the petition for writ of mandamus.

Opinion delivered December 27, 2016.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(PUBLISH)



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

DECEMBER 27, 2016

NO. 12-16-00324-CV

JEFFREY DEE CLICK,
Relator
V.

HON. JASON A. ELLIS,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by **JEFFREY DEE CLICK**; who is the relator in Cause No. 15-1779, pending on the docket of the County Court at Law of Smith County, Texas. Said petition for writ of mandamus having been filed herein on December 14, 2016, and the same having been duly considered, because it is the opinion of this Court that the writ 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., Hoyle, J. and Neeley, J.