

**COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS
CHRISTI–EDINBURG**

In re Antonio M. Lacy

No. 13-12-00633-CV (Tex. App.—Corpus Christi–Edinburg Oct. 24, 2012) (mem. op.) · No. 13-12-00633-CV ·
Decided October 24, 2012

SUMMARY

The Thirteenth Court of Appeals of Texas denied Antonio M. Lacy’s petition for writ of mandamus. The court held that Lacy failed to establish the absence of an adequate remedy by appeal because the challenged dismissal order had already been affirmed on direct appeal.

CASE DETAILS

COURT	Court of Appeals of Texas, Thirteenth District, Corpus Christi–Edinburg
WRITING FOR THE COURT	Per Curiam; Chief Justice Valdez; Justice Benavides; Justice Perkes
JURISDICTION	Texas
DECIDED	October 24, 2012
DOCKET	13-12-00633-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Relator sought mandamus relief to set aside a trial-court order dismissing an underlying civil proceeding under Chapter 14 of the Texas Civil Practice and Remedies Code. The court denied the petition because relator failed to establish that he lacked an adequate remedy by appeal, particularly because the challenged order had already been affirmed on direct appeal.
STANDARD OF REVIEW	Mandamus relief requires the relator to show that the trial court abused its discretion and that the relator lacks an adequate remedy by appeal. The relator bears a heavy burden to establish both prerequisites.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion
PARTIES	Antonio M. Lacy

TOPICS

- writ of certiorari
- appellate procedure
- standard of review
- remedies
- civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

extraordinary writs

remedies

QUESTIONS PRESENTED

1. Whether Lacy was entitled to mandamus relief to set aside the order dismissing his Chapter 14 civil proceeding after that order had already been affirmed on direct appeal.
2. Whether Lacy established that he lacked an adequate remedy by appeal, as required for mandamus relief.

HOLDINGS

1. A relator seeking mandamus relief must establish both that the trial court abused its discretion and that the relator lacks an adequate remedy by appeal.
2. A relator is not entitled to mandamus relief when the challenged order has already been affirmed on direct appeal and the relator therefore has not shown the absence of an adequate remedy by law.

KEY QUOTATIONS

“To be entitled to the extraordinary relief of a writ of mandamus, relator must show that the trial court abused its discretion and that there is no adequate remedy by appeal.”

“Relator has the burden to establish both prerequisites to mandamus relief, and this burden is a heavy one.”

FACTUAL BACKGROUND

Antonio M. Lacy’s underlying civil proceeding was dismissed under Chapter 14 of the Texas Civil Practice and Remedies Code by an order signed on May 17, 2011. The court of appeals had already affirmed that dismissal on direct appeal. Lacy thereafter sought mandamus relief to set aside the dismissal order.

PROCEDURAL HISTORY

The trial court signed an order on May 17, 2011, dismissing the underlying civil proceeding under Chapter 14. The court of appeals previously affirmed that order on direct appeal in *Lacy v. Jackson*. Lacy then filed a petition for writ of mandamus on October 19, 2012, seeking to set aside the order; the court denied mandamus relief.

DISPOSITION

writ_denied

CASES CITED

- *In re Columbia Med. Ctr. of Las Colinas*, 290 S.W.3d 204, 207 (Tex. 2009) (orig. proceeding)
- *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding)
- *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding)
- *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding)

- Lacy v. Jackson, No. 13-11-00364-CV, 2012 Tex. App. LEXIS 1128, at *1 (Tex. App.—Corpus Christi Feb. 9, 2012, no pet.) (mem. op.)

OPINION

in Re Antonio M. Lacy

PER CURIAM.

NUMBER 13-12-00633-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE ANTONIO M. LACY

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

Before Chief Justice Valdez and Justices Benavides and Perkes Memorandum Opinion Per Curiam¹ Relator, Antonio M. Lacy, filed a petition for writ of mandamus in the above cause on October 19, 2012. Relator seeks to set aside an order signed on May 17, 2011, dismissing the underlying civil proceeding under Chapter 14 of the Texas Civil Practice and Remedies Code. See TEX. CIV. PRAC. & REM. CODE ANN. §§ 14.001-.014 (West 2002 & Supp. 2011). We deny the petition for writ of mandamus. To be entitled to the extraordinary relief of a writ of mandamus, relator must show that the trial court abused its discretion and that there is no adequate remedy by appeal. 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.”); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions). In re Columbia Med. Ctr. of Las Colinas, 290 S.W.3d 204, 207 (Tex. 2009) (orig. proceeding); In re Prudential Ins. Co. of Am., 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). Relator has the burden to establish both prerequisites to mandamus relief, and this burden is a heavy one. In re CSX Corp., 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding); see also Barnes v. State, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) (“Even a pro se applicant for a writ of mandamus must show himself entitled to the extraordinary relief he seeks.”). In the instant case, relator seeks to set aside an order that we have already affirmed on direct appeal. See Lacy v. Jackson, No. 13-11-00364-CV, 2012 Tex. App. LEXIS 1128, at *1 (Tex. App.—Corpus Christi Feb. 9, 2012, no pet.) (mem. op.). Accordingly, 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 show that he lacks an adequate remedy by law. See In re Prudential Ins. Co. of Am., 148 S.W.3d at 135–36. The petition for writ of mandamus is DENIED. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Delivered and filed the 24th day of October, 2012. 2

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