

**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.

OPINION

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