

COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS

In re Kerry L. Burke

In re Burke · No. 13-26-00003-CR · Decided January 8, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas denied Kerry L. Burke’s pro se petition for writ of mandamus seeking release from imprisonment on a personal bond. The court held that Burke did not meet the burden required to obtain mandamus relief and granted his motion to proceed without payment of costs.

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas
WRITING FOR THE COURT	Clarissa Silva; Justice Cron; Justice Fonseca
JURISDICTION	Court of Appeals for the Thirteenth District of Texas
DECIDED	January 8, 2026
DOCKET	13-26-00003-CR
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Relator filed a pro se petition for writ of mandamus seeking to compel the trial court to release him from imprisonment on a personal bond. The court denied the petition and granted his motion for leave to proceed without payment of costs.
STANDARD OF REVIEW	Mandamus relief requires the relator to establish that the requested act is ministerial and not discretionary or judicial, and that no adequate remedy at law exists. The relator also bears the burden to properly request relief and provide a sufficient record.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; not for publication under Texas Rule of Appellate Procedure 47.2(b).
PARTIES	Kerry L. Burke v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- bail
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Burke established entitlement to mandamus relief compelling the trial court to release him from imprisonment on a personal bond.
2. Whether Burke demonstrated that the act sought was ministerial, that he lacked an adequate remedy at law, and that the record established his right to relief.

HOLDINGS

1. A relator seeking mandamus relief in a criminal case must establish both that the act sought to be compelled is ministerial and does not involve a discretionary or judicial decision, and that there is no adequate remedy at law.
2. The relator bears the burden to properly request mandamus relief and provide a sufficient record establishing the right to that relief.

KEY QUOTATIONS

“In a criminal case, to be entitled to mandamus relief, the relator must establish both that the act sought to be compelled is a ministerial act not involving a discretionary or judicial decision and that there is no adequate remedy at law to redress the alleged harm.” (Opinion at 1)

“The Court, having examined and fully considered the petition for writ of mandamus, is of the opinion that relator has not met his burden to obtain mandamus relief.” (Opinion at 2)

FACTUAL BACKGROUND

Burke was imprisoned while subject to a personal bond that he alleged had been increased from \$2,000 to \$6,000. He claimed the increase was illegal and was made without proper admonishment or legal justification. He sought mandamus compelling the trial court to release him on a personal bond.

PROCEDURAL HISTORY

Burke alleged that the trial court illegally increased his bond from \$2,000 to \$6,000 without proper admonishment or legal justification. The Thirteenth Court of Appeals concluded that he had not met his burden to establish entitlement to mandamus relief and denied the petition.

DISPOSITION

writ_denied

CASES CITED

- In re Meza, 611 S.W.3d 383, 388 (Tex. Crim. App. 2020) (orig. proceeding)
- In re Harris, 491 S.W.3d 332, 334 (Tex. Crim. App. 2016) (orig. proceeding) (per curiam)

- In re McCann, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding)
- State ex rel. Young v. Sixth Jud. Dist. Ct. of Apps. at Texarkana, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding)
- In re Pena, 619 S.W.3d 837, 839 (Tex. App.—Houston [14th Dist.] 2021, orig. proceeding)
- Barnes v. State, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) (per curiam)
- In re Schreck, 642 S.W.3d 925, 927 (Tex. App.—Amarillo 2022, orig. proceeding)

OPINION

PER CURIAM.

NUMBER 13-26-00003-CR COURT OF APPEALS THIRTEENTH DISTRICT OF TEXAS
CORPUS CHRISTI – EDINBURG IN RE KERRY L. BURKE ON PETITION FOR WRIT OF
MANDAMUS MEMORANDUM OPINION Before Justices Silva, Cron, and Fonseca
Memorandum Opinion by Justice Silva¹ By pro se petition for writ of mandamus, relator Kerry L. Burke seeks to compel the trial court to release relator from imprisonment on a personal bond.

² Relator alleges that 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. When granting relief, the court must hand down an opinion as in any other case.”); *id.* R. 47.4 (distinguishing opinions and memorandum opinions). ² In addition to his petition for writ of mandamus, relator also filed a motion for leave to proceed in the bond originally imposed in his case was increased from \$2,000 to \$6,000 “illegally, [and] without proper admonishment or legal justification.” In a criminal case, to be entitled to mandamus relief, the relator must establish both that the act sought to be compelled is a ministerial act not involving a discretionary or judicial decision and that there is no adequate remedy at law to redress the alleged harm.

See *In re Meza*, 611 S.W.3d 383, 388 (Tex. Crim. App. 2020) (orig. proceeding); *In re Harris*, 491 S.W.3d 332, 334 (Tex. Crim. App. 2016) (orig. proceeding) (per curiam); *In re McCann*, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding). If the relator fails to meet both requirements, then the petition for writ of mandamus should be denied. See *State ex rel.*

Young v. Sixth Jud. Dist. Ct. of Apps. at Texarkana, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding). It is the relator’s burden to properly request and show entitlement to mandamus relief. See *id.*; *In re Pena*, 619 S.W.3d 837, 839 (Tex. App.—Houston [14th Dist.] 2021, orig. proceeding); see also *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.]

1992, orig. proceeding) (per curiam) (“Even a pro se applicant for a writ of mandamus must show himself entitled to the extraordinary relief he seeks.”). The relator bears the burden of providing a sufficient record to establish the right to mandamus relief.

In re Schreck, 642 S.W.3d 925, 927 (Tex. App.—Amarillo 2022, orig. proceeding); *In re Pena*, 619 S.W.3d at 839; see generally TEX. R. APP. P. 52.3, 52.7. *forma pauperis*. We grant relator’s

motion for leave to proceed without the payment of costs. 2 The Court, having examined and fully considered the petition for writ of mandamus, is of the opinion that relator has not met his burden to obtain mandamus relief.

Accordingly, we deny the petition for writ of mandamus. CLARISSA SILVA Justice Do not publish. TEX. R. APP. P. 47.2 (b). Delivered and filed on the 8th day of January, 2026. 3