

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.

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