Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-14-00114-CR

IN RE Manuel **ALCOSER** Jr.

Original Mandamus Proceeding[1]

PER CURIAM

Sitting: Sandee Bryan Marion, Justice
Rebeca C. Martinez, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: March 5, 2014

PETITION FOR WRIT OF MANDAMUS DISMISSED FOR LACK OF JURISDICTION

On February 8, 2014, relator Manuel Alcoser Jr. filed a pro se petition for writ of mandamus asking this court to direct the district court clerk to respond to a number of motions, which Alcoser contends were filed in his underlying criminal proceeding over the last several weeks. However, this court does not have jurisdiction to grant the requested relief. By statute, this court has the authority to issue a writ of mandamus against "a judge of a district or county court in the court of appeals district" and other writs as necessary to enforce appellate jurisdiction. *See* TEX. GOV'T CODE ANN. § 22.221(a)-(b) (West 2004). We conclude the writ in this instance is not necessary to enforce jurisdiction. Accordingly, we dismiss relator's petition for writ of mandamus for lack of jurisdiction.

[1] This proceeding arises out of Cause No. 2011CR5943, styled *The State of Texas v. Manuel Alcoser Jr.*, pending in the 437th Judicial District Court, Bexar County, Texas, the Honorable Lori I. Valenzuela presiding.

Even if we were to construe Alcoser's petition as requesting mandamus relief against a proper respondent, however, a relator has the burden of providing this court with a record sufficient to establish a right to mandamus relief including, in a case such as this, that the motions at issue were properly filed, the trial court was made aware of the pending motions and the motions have awaited disposition for an unreasonable period of time. *See* TEX. R. APP. P. 52.3(k)(1)(A), 52.7(a) ("Relator must file with the petition [ ] a certified or sworn copy of every document that is material to the relator's claim for relief and that was filed in any underlying proceeding"); *In re Mendoza*, 131 S.W.3d 167, 167-68 (Tex. App.—San Antonio 2004, orig. proceeding). Alcoser has not provided this court with a record sufficient to establish his claim for relief. *See In re Gallardo*, 269 S.W.3d 643, 645 (Tex. App.—San Antonio 2008, orig. proceeding).

Additionally, relator requested leave to file the petition for writ of mandamus. No leave is required to file a petition for writ of mandamus in this court. TEX. R. APP. P. 52. Therefore, relator's request for leave to file is denied as moot.

PER CURIAM

DO NOT PUBLISH