

In request for juvenile records, mandamus will issue if relator demonstrates that the act sought to be compelled has no other adequate legal remedy.[In re J.B.H.](13-2-6)

On February 12, 2013, the Houston Court of Appeals (14<sup>th</sup> Dist.) held that, in Writ of Mandamus to compel trial court to rule on motion to inspect and purchase copy of juvenile record, relator failed to show that he asked the trial court to sign an order permitting the sealed records to be inspected.

¶ 13-2-6. **In re J.B.H.**, MEMORANDUM, No. 14-13-00072-CV, 2013 WL 504106 [Tex.App.-Hous. (14 Dist.), 2/12/13].

**Facts:** Relator J.B.H. filed a pro se petition for writ of mandamus in this court. See Tex. Gov't Code § 22.221; see also Tex.R.App. P. 52. In the petition, relator asks this court to compel the Honorable Glenn Devlin, presiding judge of the 313th District Court of Harris County to rule on his motion to inspect and/or purchase a certified copy of the certification records in his juvenile case. According to his petition, the records in his juvenile case have been ordered sealed. Relator asserts that he requires the copies so that he may file a post-conviction application for writ of habeas corpus. See Tex.Code Crim. Proc. art. 11.07.

**Held:** Writ of Mandamus Denied

**Per Curiam Memorandum Opinion:** The juvenile court waived jurisdiction and transferred relator's case to district court. See Tex. Fam.Code § 54.02. He proceeded to trial, a jury convicted him of aggravated sexual assault, and this court affirmed his conviction. See *Hines v. State*, 38 S.W.3d 805 (Tex.App.Houston [14th Dist.] 2001, no pet.). Thus, even though relator is seeking juvenile court records, the relief that he seeks is from a final, felony conviction. Only the Texas Court of Criminal Appeals has jurisdiction over matters related to final post-conviction felony proceedings. *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex.1991); Tex.Code Crim. Proc. art. 11.07.

Mandamus is an extraordinary remedy that will issue only if relator demonstrates that the act sought to be compelled is purely ministerial and he has no other adequate legal remedy. *State ex rel. Rosenthal v. Poe*, 98 S.W.3d 194, 198 (Tex.Crim.App.2003). If the respondent trial court has a legal duty to perform a nondiscretionary act, the relator must make a demand for performance that the respondent refuses. *Barnes v. State*, 832 S.W.2d 424, 426 (Tex.App.Houston [1st Dist.] 1992, orig. proceeding). The relator must also provide this court with a sufficient record to establish his right to mandamus relief. *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex.1992).

The Family Code provides that sealed records may be inspected only if the trial court has signed an order permitting the inspection after a request by the juvenile. The Code provides as follows:

(h) Inspection of the sealed records may be permitted by an order of the juvenile court on the petition of the person who is the subject of the records and only by those persons named in the order. Tex. Fam.Code § 58.003(h).

**Conclusion:** Relator has not shown that he asked the trial court to sign an order permitting the sealed records to be inspected. See *In re Z.Q.*, No. 14-12-00129-CV, 2013 WL 1761116, \*3 (Tex.App.Houston [14th Dist.] Jan. 17, 2013, no pet. h.) (not designated for publication) (on appeal from denial of habeas relief, finding waiver of complaint that juvenile record was not unsealed where appellant did not show a request for an order unsealing records was called to the trial court's attention). Relator has not established his entitlement to the extraordinary relief of a writ of mandamus. Accordingly, we deny relator's petition for writ of mandamus.