

Texas Criminal Mandamus Law & Practice

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Two Topics today

- Pleading Burdens in Extraordinary Writ cases
- Mandamus in criminal cases

Pleading!

- Most important principle in extraordinary writ practice:
- “[T]he burden is on the applicant to allege and prove facts which, if true, entitle him to relief.”
 - *Ex parte Maldonado*, 688 S.W.2d 114 (Tex. Crim. App. 1985)

Habeas harm is the biggest pleading downfall for applicants. The applicant must illuminate the bad and the good, and argue why the good outweighs the bad. If there is no bad, then say so!

Pleading burdens

Maldonado is specific to 11.07 applications, but the same principle applies to pre-trial habeas and mandamus, where the proponent must essentially present a self-proving lawsuit in which the law and facts are beyond dispute.

MANDAMUS AND PROHIBITION!

- Mandamus: from the Law Latin for “WE COMMAND!”
- Less dramatically: an order issued to compel performance of a particular act by a lower court or governmental officer or body, usually to correct a prior action or failure to act.

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First appeared as part of the conference materials for the
2017 Robert O. Dawson Conference on Criminal Appeals session
"Mandamus"