

TO: CLERK, TEXAS SUPREME COURT
FROM: CHARLES DUSTIN MYERS, RELATOR
SUBJECT: Mandamus Petition – Docketing
DATE: 09/25/2025
RE: CHUCKDUSTIN12@GMAIL.COM
TEL: 817-546-3693

COVER LETTER

TO THE HONORABLE TEXAS SUPREME COURT:

1. On September 24, 2025, at 4:34 PM CST, the undersigned submitted a Petition for Writ of Mandamus to this Court naming the Regional Presiding Judge for the 8th Administrative Region of Texas, David L. Evans, as the Respondent.¹
2. At 4:49 PM the filing was rejected by the Honorable Clerk, who stated the following:

“Your Motion for Rehearing was denied. The case is closed, and the decision of the Supreme Court of Texas is final.”
3. On September 25, 2025, at 6:25 A.M., the undersigned once again submitted the new and legally distinct mandamus petition with an attached cover letter explaining that the mandamus is not a rehearing request or a request to open prior cases and is legally distinct from all prior petitions.
4. At 9:08 AM, the clerk once again rejected the filing for the same reasons as stated above despite the mandamus identifying a separate and legally distinct issue from the prior petitions. A mandamus petition naming the regional judge as a respondent seeking relief from a recusal regarding a trial court judge is not the same thing as a mandamus petition seeking relief from a recusal regarding the regional judge himself.
5. Therefore, the clerk has a non-discretionary, ministerial duty to docket this petition.

¹ See case number 106043706.

I. SUMMARY

1. The Texas Supreme Court clerk is legally required to docket any new and legally distinct mandamus petition as a ministerial, non-discretionary duty; refusal to do so entitles the litigant to seek a motion to compel and, if necessary, a writ of mandamus to enforce this obligation. Texas law and controlling precedent make clear that access to the courts cannot be denied by procedural technicalities or clerical inaction, and the substance—not the form or docketing—of a petition determines whether it must be accepted and considered.

2. A new and legally distinct mandamus petition submitted to the Texas Supreme Court must be docketed by the clerk, regardless of any similarities to prior filings or the identity of the parties. The clerk's duty to docket such petitions is ministerial, not discretionary, and is firmly established by both statutory law and binding case law; if the clerk refuses, the litigant may seek judicial intervention to compel compliance.

3. Texas courts have repeatedly held that the right to have a petition considered on its merits should not be lost due to clerical or procedural errors. The Supreme Court and courts of appeals have emphasized that substance controls over form, and that procedural technicalities must not bar access to justice. If the clerk fails to docket a new petition, the proper remedy is first a motion to compel, and if that fails, a writ of mandamus to require the clerk to perform this non-discretionary duty.

II. ANALYSIS

A. The Clerk's Ministerial Duty to Docket New and Distinct Petitions

4. The Texas Supreme Court clerk's obligation to docket new and legally distinct petitions is a ministerial, non-discretionary duty. This is not a matter of the clerk's judgment or discretion; rather, it is a legal requirement imposed by statute, rule, and binding precedent. When

a petition is properly submitted and raises new legal issues or facts not previously adjudicated, the clerk must docket it as a new proceeding, regardless of any similarities to prior cases or the identity of the parties (*Moore v. Muse*, 47 Tex. 210 (Tex. 1877)).

5. The rationale for this rule is rooted in the fundamental right of access to the courts. The Supreme Court has repeatedly emphasized that procedural technicalities or clerical errors must not be allowed to defeat a litigant's right to have their claims heard on the merits (*JDH Pac., Inc. v. Precision-Hayes Int'l, Inc.*, 659 S.W.3d 449 (Tex. 2022)). The clerk's refusal to docket a new petition—on the mistaken belief that it is a motion for rehearing or a duplicate—constitutes a failure to perform a ministerial duty and is subject to judicial correction.

B. Substance Over Form: The Controlling Principle

6. Texas law is clear that the substance of a petition, not its form or how it is docketed, determines whether it invokes the court's jurisdiction (*Leach v. Brown*, 156 Tex. 66, 292 S.W.2d 329 (Tex. 1956)). Even if a petition shares some factual background with earlier filings, if it raises new legal issues based on new facts, it must be treated as a new proceeding. The Supreme Court has instructed that procedural rules should be construed liberally to protect litigants' rights and that the era in which docketing errors could have fatal jurisdictional consequences has ended (*JDH Pac., Inc. v. Precision-Hayes Int'l, Inc.*, 659 S.W.3d 449 (Tex. 2022)).

7. This principle is especially important in the context of original proceedings and mandamus petitions, where the right to judicial review is at stake. The clerk's role is to ensure that the petition is docketed and presented to the court for consideration; any determination as to the merits or jurisdiction is for the court, not the clerk (*In re Washington*, 7 S.W.3d 181 (Tex. App. 1999)).

C. Remedies for Refusal to Docket

8. If the clerk refuses to docket a new and distinct petition, the aggrieved party has established remedies under Texas law. The primary remedy is to file a motion in the Supreme Court to compel the clerk to perform the ministerial act of docketing the petition (*Moore v. Muse*, 47 Tex. 210 (Tex. 1877)). This is described as the most prompt and effective means of redress.

9. If a motion to compel is ineffective or unavailable, the litigant may seek a writ of mandamus from the Supreme Court itself, directing the clerk to docket the petition (Tex. Gov't. Code § 22.002). The requirements for mandamus relief are that the relator must show (1) a clear legal right to the performance of the act, (2) a ministerial duty on the part of the officer, and (3) the absence of an adequate remedy by appeal (*Walker v. Packer*, 827 S.W.2d 833 (Tex. 1992); *In re Cano*, 2022-10-27). In the context of a clerk's refusal to docket a petition, these requirements are met: the right to have a new and distinct petition docketed is clear, the clerk's duty is ministerial, and there is no adequate remedy by appeal since the refusal prevents the case from being heard at all.

D. The Importance of Access to the Courts

10. The Texas Supreme Court has repeatedly emphasized that access to the courts should not be denied due to procedural missteps or clerical errors. The courts are to resolve cases on their merits, not on technicalities (*JDH Pac., Inc. v. Precision-Hayes Int'l, Inc.*, 659 S.W.3d 449 (Tex. 2022)). This policy underpins the remedies available to a litigant in the present scenario and supports the argument that the clerk must docket any new and legally distinct petition.

E. Application to the Present Scenario

11. In the present case, the relator's new petition is not a motion for rehearing or an attempt to reopen a prior case, as previously stated in the cover letter. It raises distinct legal

issues and factual circumstances that have arisen since the previous filings, specifically the Regional Presiding Judge's failure to refer a recusal motion to the Chief Justice as required by statute (Tex. Gov't. Code § 25.00255) within a reasonable time. The relief sought is different, and the statutory authority invoked was not at issue in any previous petition.

12. Texas law requires that such a petition be docketed and considered on its merits. The clerk's refusal to do so would constitute a failure to perform a ministerial duty, entitling the relator to seek judicial intervention to compel compliance.

III. CONCLUSION

13. For all the reasons stated above, the undersigned directly requests the clerk to perform its' ministerial duty.

14. Failure to do so would result in future legal action that would be counterproductive and unnecessary when the clear duty to docket the instant petition exists. Nevertheless, the undersigned must ask the Clerk to respectfully perform its' ministerial duty so that the prerequisites for future remedies are satisfied.

15. If any further information is required by the Court, please don't hesitate to utilize the lines of communication listed below.

Respectfully submitted,

/s/ Charles Dustin Myers
CHARLES DUSTIN MYERS
CHUCKDUSTIN12@GMAIL.COM
817-546-3693
PRO-SE RELATOR

On this 25th day of September, 2025