

*Justice of the Peace*

5-32-40 requires return on appeal.

5-32-43. Provides for attachment to compel allowance of appeal.

5-32-44. Allows Dist. Ct. by attachment to compel return.

*Rakilly v. Lane* 1870, 15 Min. 447 Mil. 360

Duty of appellant to take necessary steps to compel its transmission and filing (51 C.J.S. 166 page 357) by rule and attachment, *Hughes v. Wheat* 32 Ark. 292.

Mandamus may be used to compel performance

however, where a specific remedy is provided by statute for refusal of justice to perform his duty mandamus cannot be used.

See Mandamus 55 C.J.S. 69 pages 114-115.

*Upham v. McCarson*, Civ. App. 57 A.W. 225

*Krabowski v. Smith* 230 N.W. 947, 250 Mich. 565

*State v. Walter* 162 N.E. 444, 200 Ind. 235

*McIntire v. Carmichael* 99 P. 241040, 186 Okl. 672

*Summers v. Powers*, 75 P. 24411, 181 Okl. 549

38 C.J.S. 619 notes 90

*Houston & T.R. Co. v. Aycock*, Tex. Civ. App. 201 A.W. 664

35 C.J.S. 799 notes 66.

See *Chi. P. & P.R. Co. v. Franko*, 55 Mo. 325

*State v. McAuliffe* 48 Mo. 112.

153 N.W. 37825. *Peterson case*. 278 M. 225-432