



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE	§	No. 08-14-00285-CR
STEVEN E. COTTINGHAM,	§	ORIGINAL PROCEEDING
RELATOR.	§	ON PETITION FOR WRIT OF
	§	MANDAMUS

MEMORANDUM OPINION

Relator, Steven E. Cottingham, an inmate in a federal correctional institution, has filed a petition for writ of mandamus against the Honorable William E. Moody, Judge of the 34th District Court of El Paso County, Texas, alleging that the court has not ruled on Relator's pending motions in cause number 20140D02027. We deny mandamus relief.

To obtain mandamus relief, Relator must establish both that he has no adequate remedy at law to redress his alleged harm, and that what he seeks to compel is a ministerial act not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial District Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex.Crim.App. 2007). To be entitled to a writ of mandamus compelling a trial court to consider and rule on a properly filed and pending motion, Relator must establish that: (1) he asked the trial court to rule; and (2) the trial court has either refused to rule, or failed to rule within a reasonable time. *Barnes v. State*, 832 S.W.2d 424, 426-27 (Tex.App.--Houston [1st Dist.] 1992, orig. proceeding). It is the Relator's burden to provide this Court with a sufficient record to establish his right to mandamus relief. *See*

TEX.R.APP.P. 52.3(k)(1)(A)(appendix to mandamus petition must contain a copy of any order complained of, or any other document showing the matter complained of); TEX.R.APP.P. 52.7(a)(1)(relator must file with the mandamus petition a copy of every document that is material to his claim for relief). Relator has not provided the Court with a file-marked copy of his motions and he has not shown that he asked the trial court to rule on his motions. Further, there is no evidence in the mandamus record that the court has refused to rule or has failed to rule within a reasonable time. The petition for writ of mandamus is denied.

October 29, 2014

YVONNE T. RODRIGUEZ, Justice

Before McClure, C.J., Rodriguez, and Hughes, JJ.

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