

**Petition for Writ of Mandamus Denied and Memorandum Opinion filed May 28, 2010**



**In The**

**Fourteenth Court of Appeals**

---

**NO. 14-10-00450-CV**

---

**IN RE JULIUS GRULKEY, Relator**

---

**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS**

---

**MEMORANDUM OPINION**

On May 20, 2010, relator, Julius Grulkey, filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann. §22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to compel the presiding judge of the 412th District Court of Brazoria County to rule on several unspecified pending motions.

To be entitled to mandamus relief, a relator must show that he has no adequate remedy at law to redress his alleged harm, and what he seeks to compel is a ministerial act, not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding). Consideration of a motion that is properly filed and before the

court is a ministerial act. *State ex rel. Curry v. Gray*, 726 S.W.2d 125, 128 (Tex. Crim. App. 1987) (orig. proceeding) (op. on reh'g). A relator must establish that the trial court (1) had a legal duty to rule on the motion; (2) was asked to rule on the motion; and (3) failed to do so. *In re Keeter*, 134 S.W.3d 250, 252 (Tex. App.—Waco 2003, orig. proceeding). A relator must show that the trial court received, was aware of, and asked to rule on the motion. *In re Villarreal*, 96 S.W.3d 708, 710 (Tex. App.—Amarillo 2003, orig. proceeding). Filing something with the district clerk's office does not mean the trial court is aware of it; nor is the clerk's knowledge imputed to the trial court. *Id.* at n.2.

Relator has not provided a sufficient record in this original proceeding. Relator has not filed any sworn or certified copies of documents supporting his claim that he is entitled to mandamus relief. *See* Tex. R. App. P. 52.7(a)(1) (requiring relator to file with petition certified or sworn copy of every document that is material to relator's claim for relief and that was filed in any underlying proceeding). Furthermore, relator has not included any file-stamped copies of the motions and, therefore, he has not demonstrated that the motions are pending in the trial court. Even if relator had provided file-stamped copies of his motions, he has not shown that the trial court received, was aware of, and was asked to rule on his motions.

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.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Yates and Boyce.