

**Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed  
November 18, 2010.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-10-00998-CV**

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**IN RE DANNY LEE GONZALES, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS**

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**MEMORANDUM OPINION**

On October 12, 2010, relator, Danny Lee Gonzales, 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 his petition, relator requests this court to compel the Honorable Annette Kuntz, presiding judge of the 245th District Court of Harris County, Texas, to rule on motions he claims to have filed relating to his petition for divorce, which is apparently pending in that court.

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 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 file-stamped copies of his motions demonstrating they are actually pending in the trial court. Absent a showing the trial court is aware of and been 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 Justices Seymore, Boyce, and Christopher.