

Petition for Writ of Mandamus Denied and Memorandum Opinion filed November 23, 2010.



In The
Fourteenth Court of Appeals

NO. 14-10-01101-CR

IN RE THOMAS FLORENCE, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS**

MEMORANDUM OPINION

On November 8, 2010, relator Thomas Florence 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 Honorable Roy Quintanilla, presiding judge of the County Court at Law No. 3 to “bring him before the court” and rule on his motion for speedy trial.

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). 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 was asked to rule on the motion. *In re Villarreal*, 96 S.W.3d 708, 710 (Tex. App.—Amarillo 2003, orig. proceeding). Relator failed to attach his motion for speedy trial to his petition. He further failed to show the trial court was asked to rule on the motion or that it failed to do so.

Absent a showing the trial court is aware of and been asked to rule on relator's request, relator has not established 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 Anderson, Frost, and Brown.

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