

Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-08-00618-CR

IN RE Robert GUIDROZ

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Alma L. Lopez, Chief Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: September 17, 2008

PETITION FOR WRIT OF MANDAMUS DENIED

Robert Guidroz seeks a writ of mandamus compelling the trial court to rule on his motion for judgment nunc pro tunc addressing jail credit. This court is authorized to issue a writ of mandamus to compel a trial court to consider and rule on a nunc pro tunc motion addressing pre-sentence jail credit. *Ex parte Ybarra*, 149 S.W.3d 147, 148-49 (Tex. Crim. App. 2004); *In re Isbell*, No. 04-06-00558-CV, 2006 WL 3206075, at *1 (Tex. App.—San Antonio, November 8, 2006, orig. proceeding) (mem. op.). However, a relator has the burden of providing this court with a record sufficient to establish a right to mandamus relief. *See* TEX. R. APP. P. 52.7(a) (“Relator must file with the petition [] a certified or sworn copy of every document that is material to the relator’s claim

¹ This proceeding arises out of Cause No. 92-1004-CR, styled *The State of Texas v. Robert Guidroz*, filed in the 25th Judicial District Court, Guadalupe County, Texas, the Honorable Dwight E. Peschel presiding.

for relief and that was filed in any underlying proceeding”); *see also* TEX. R. APP. P. 52.3(j)(1)(A). Here, Guidroz has not provided this court with a copy of his motion or any other documents to support his claim for relief. Nor has Guidroz established that the trial court has been made aware of his motion or has expressly refused to rule on it. *See In re Isbell*, 2006 WL 3206075, at *2 (conditionally granting mandamus relief when the record showed the trial court was made aware of the nunc pro tunc motion but nevertheless failed to consider and rule on it). We conclude that Guidroz has not shown himself entitled to mandamus relief. Accordingly, the petition is denied.

PER CURIAM

DO NOT PUBLISH