

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

---

---

**NO. 03-11-00369-CV**

---

---

**In re Ardell Nelson, Jr.**

---

---

**ORIGINAL PROCEEDING FROM TRAVIS COUNTY**

---

---

**MEMORANDUM OPINION**

In his pro se petition for writ of mandamus, Ardell Nelson asks the Court to order the judge of the 331st District Court to act on Nelson's motions for forensic DNA testing and appointment of counsel. *See* Tex. Code Crim. Proc. Ann. art. 64.01 (West Supp. 2010). According to the petition, Nelson filed the motions on November 8, 2010, but we are otherwise informed that the actual filing date was December 6, 2010.

At the Court's request, the State filed a response to the mandamus petition. In its response, the State says that it filed a memorandum in opposition to Nelson's motions for DNA testing and appointment of counsel on July 13, 2011 (the date the State's response was filed in this Court). *See id.* art. 64.02(a)(2) (giving State sixty days to respond to testing motion). We are confident that the district court, having now received the State's response, will promptly act on Nelson's motions. If it does not, Nelson may file a second mandamus petition.

With that understanding, the petition for writ of mandamus is denied. *See* Tex. R. App. P. 52.8(a).

---

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Pemberton and Henson

Filed: July 21, 2011