

**NO. 12-10-00172-CR**  
**IN THE COURT OF APPEALS**  
**TWELFTH COURT OF APPEALS DISTRICT**  
**TYLER, TEXAS**

*IN RE:* §  
*RICHARD RANDLE,* § *ORIGINAL PROCEEDING*  
*RELATOR* §

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***MEMORANDUM OPINION***  
***PER CURIAM***

Relator Richard James Randle requests a writ of mandamus directing the trial court to rule on the motion for reformation of sentence that he alleges he mailed to the trial court.

A trial court has a reasonable time to perform the ministerial duty of considering and ruling on a motion properly filed and before the court. *In re Chavez*, 62 S.W.3d 225, 228 (Tex. App.–Amarillo 2001, orig. proceeding). But that duty generally does not arise until the movant has brought the motion to the trial court’s attention. *See id.* Mandamus will not lie unless the movant shows the trial court is aware of the motion but has failed or refused to rule within a reasonable time. *See id.* Moreover, a relator must furnish a record showing that he is entitled to the requested relief. *See* TEX. R. APP. P. 52.7(a)(1) (relator must file certified or sworn copy of every material document filed in any underlying proceeding).

Here, Relator has not filed a copy of his motion for reformation of sentence. Consequently, we cannot say that the motion has been received by the trial court or that the trial court has had a reasonable time to rule on the motion. *See In re Chavez*, 62 S.W.3d at 228.

Accordingly, Relator’s petition for writ of mandamus is *denied*.<sup>1</sup>

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<sup>1</sup> Relator contends that a defect which renders a sentence void may be raised at any time. The case he cites, *Ex parte Rich*, 194 S.W.3d 508, 513 (Tex. Crim. App. 2006), presents a fact situation similar to the one in the present

Opinion delivered July 30, 2010.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*

(DO NOT PUBLISH)

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case. There, the court of criminal appeals held that an illegal sentence claim similar to Relator's may be raised for the first time on an application for writ of habeas corpus. *See id.* at 511. The procedure for filing a postconviction habeas application to seek relief from a final felony conviction in a Texas court is found in article 11.07 of the Texas Code of Criminal Procedure. The court of criminal appeals has exclusive authority to grant postconviction relief in a felony case. *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991).