



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: ERIC FLORES,
Relator.

§
§ No. 08-19-00148-CR
§ AN ORIGINAL PROCEEDING
§ IN MANDAMUS
§

MEMORANDUM OPINION

Relator, Eric Flores, has filed a petition for writ of mandamus against the Honorable Maria Salas-Mendoza, Judge of the 120th District Court of El Paso County, Texas because she has failed to rule on a motion for post-conviction relief filed in trial court cause number 20110D01621. The petition for writ of mandamus is denied.

To be entitled to mandamus relief, a relator must meet two requirements. The relator must establish (1) that he has no adequate remedy at law to redress his alleged harm, and (2) that what he seeks to compel is a ministerial act, not a discretionary or judicial decision. *In re Allen*, 462 S.W.3d 47, 49 (Tex.Crim.App. 2015). When the relator seeks a writ of mandamus compelling a trial court to consider and rule on a properly filed motion, the relator must establish that the trial court: (1) had a legal duty to rule on the motion; (2) was asked to rule on the motion; and (3) failed or refused to rule on the motion within a reasonable time. *In re Molina*, 94 S.W.3d 885, 886 (Tex.App.--San Antonio 2003, orig. proceeding); see *In re Layton*, 257 S.W.3d 794, 795

(Tex.App.--Amarillo 2008, orig. proceeding). Relator asserts in his petition that he mailed the motion to the trial court on June 1, 2019, and he filed this mandamus proceeding only four days later. Based on these facts, Relator has not shown that the trial court failed or refused to rule on the motion within a reasonable time. The petition for writ of mandamus is denied.

August 7, 2019

ANN CRAWFORD McCLURE, Chief Justice

Before McClure, C.J., Rodriguez, and Palafox, JJ.

(Do Not Publish)