

GRANT and Opinion Filed March 8, 2013



**In The
Court of Appeals
Fifth District of Texas at Dallas**

**No. 05-13-00140-CV
No. 05-13-00141-CV
No. 05-13-00142-CV**

IN RE RENE ADOLPHO GUZMAN, Relator

**On Appeal from the 195th Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. 71-01677-N, 71-01678-N, and 71-01679-N**

MEMORANDUM OPINION

**Before Justices Moseley, Francis, and Fillmore
Opinion by Justice Fillmore**

Relator contends the trial court violated a ministerial duty by not ruling on his “Motion for the Production of Grand Jury Proceeding and Transcript,” despite repeated inquiries from relator to the trial court requesting a ruling. The facts and issues are well known to the parties, so we need not recount them herein. Mandamus is appropriate in a criminal case if the relator shows that the act sought to be compelled is purely ministerial and relator has no adequate remedy at law. *Simon v. Levario*, 306 S.W.3d 318, 320-21 (Tex. Crim. App. 2009) (orig. proceeding). A “ministerial act is one which is accomplished without the exercise of discretion or judgment.” *State of Tex. ex rel. Hill v. Court of Appeals for the Fifth Dist.*, 34 S.W.3d 924, 927 (Tex. Crim. App. 2001) (orig. proceeding).

We find that the trial court had a ministerial duty to rule on the motion that relator filed. Accordingly, we conditionally **GRANT** relator’s petition for writ of mandamus. The writ will

issue only in the event the trial court fails to rule on relator's "Motion for the Production of Grand Jury Proceeding and Transcript" within thirty days.

/Robert M. Fillmore/

ROBERT M. FILLMORE
JUSTICE

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