

**DENY; and Opinion Filed November 6, 2018.**



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

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**No. 05-18-01216-CV**

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**IN RE KEPHREN THOMAS, Relator**

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**Original Proceeding from the Criminal District Court No. 4  
Dallas County, Texas  
Trial Court Cause No. F17-16908-K**

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**MEMORANDUM OPINION**

Before Justices Lang-Miers, Fillmore, and Stoddart  
Opinion by Justice Fillmore

In this original proceeding, relator complains that the trial court denied his motion for judgment nunc pro tunc in which he sought jail-time credit. We deny the petition for writ of mandamus.

To establish a right to mandamus relief in a criminal case, the relator must show that the trial court violated a ministerial duty and there is no adequate remedy at law. *In re State ex rel. Weeks*, 391 S.W.3d 117, 122 (Tex. Crim. App. 2013) (orig. proceeding). If a party moves for a nunc pro tunc order seeking jail-time credit and the convicting court fails to rule on or inappropriately denies the motion, “the applicant must seek a writ of mandamus to the appropriate court of appeals to compel the convicting court to rule.” *Ex parte Deeringer*, 210 S.W.3d 616, 617–18 (Tex. Crim. App. 2006) (orig. proceeding); *In re Rogers*, No. 06-12-00171-CR, 2012 WL 5493376, at \*2 (Tex. App.—Texarkana Nov. 13, 2012, orig. proceeding) (mem. op.). To prevail, however, a defendant must “show indisputably that he has been denied jail-time credit for a period

of pretrial incarceration for the identical ‘case’ for which he was convicted and sentenced. . . .” *In re Brown*, 343 S.W.3d 803, 805 (Tex. Crim. App. 2011) (orig. proceeding) (per curiam).

As the party seeking relief, the relator has the burden of providing the Court with a sufficient mandamus record to establish his right to mandamus relief. *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992) (orig. proceeding). Rules 52.3 and 52.7 require the relator to provide “a certified or sworn copy” of certain documents, including any order complained of, any other document showing the matter complained of, and every document that is material to the relator’s claim for relief that was filed in any underlying proceeding. TEX. R. APP. P. 52.3(k)(1)(A), 52.7(a)(1).

The trial court’s order states the court reviewed relator’s back time credit and determined it is correct. Relator has not provided this Court with a certified copy of the original judgment or his motion for judgment nunc pro tunc. Based on the record before us, we conclude relator has not shown that the trial court inappropriately denied the motion for judgment nunc pro tunc or violated any ministerial duties. Accordingly, we deny relator’s petition for writ of mandamus. *See* TEX. R. APP. P. 52.8(a) (the court must deny the petition if the court determines relator is not entitled to the relief sought).

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/Robert M. Fillmore/  
ROBERT M. FILLMORE  
JUSTICE

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