

Petition for Writ of Mandamus Denied and Memorandum Opinion filed August 27, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00749-CR

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IN RE RONALD CLIFTON WORD, Relator

ORIGINAL PROCEEDING
WRIT OF MANDAMUS

MEMORANDUM OPINION

On August 10, 2010, relator, Ronald Clifton Word, filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann. §22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to compel the presiding judge of the 178th District Court of Harris County to rule on two motions to set aside and vacate a void judgment.

Relator states in his petition that he filed his motions on March 31, 2010. To be entitled to mandamus relief, a relator must show that he has no adequate remedy at law to redress his alleged harm, and what he seeks to compel is a ministerial act, not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of*

Appeals at Texarkana, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding). Consideration of a motion that is properly filed and before the court is a ministerial act. *State ex rel. Curry v. Gray*, 726 S.W.2d 125, 128 (Tex. Crim. App. 1987) (orig. proceeding) (op. on reh'g). A 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 to do so. *In re Keeter*, 134 S.W.3d 250, 252 (Tex. App.—Waco 2003, orig. proceeding). A relator must show that the trial court received, was aware of, and asked to rule on the motion. *In re Villarreal*, 96 S.W.3d 708, 710 (Tex. App.—Amarillo 2003, orig. proceeding). Filing something with the district clerk's office does not mean the trial court is aware of it; nor is the clerk's knowledge imputed to the trial court. *Id.* at n.2.

Relator has not provided a sufficient record in this original proceeding. Relator has not provided file-stamped copies of his motions demonstrating that the motions are actually pending in the trial court. Moreover, relator has not shown that the trial court received the motions, was aware of the motions, and was asked to rule on them.¹

Relator has not established his entitlement to the extraordinary relief of a writ of mandamus. Accordingly, we deny relator's petition for writ of mandamus.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Yates and Sullivan.

Do Not Publish—Tex. R. App. P. 47.2(b).

¹ Relator also claims, without support in the record, that he received notice from clerk of the court that the same motions which he complains that trial has not ruled on were denied by the trial court. To the extent that relator complains about the denial of his motions to set aside and vacate a void judgment, we cannot consider the issue. *See Ater v. Eighth Court of Appeals*, 802 S.W.241, 243 (Tex. Crim. App. 1991 (orig. proceeding) (“[The Texas Court of Criminal Appeals is] the only court with jurisdiction in final post-conviction felony proceedings.”)).