

Petition for Writ of Mandamus Denied and Memorandum Opinion filed December 17, 2015.



In The

Fourteenth Court of Appeals

NO. 14-15-01017-CR

IN RE BRETT DAVID BOGUS, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
176th District Court
Harris County, Texas
Trial Court Cause No. 1433472**

MEMORANDUM OPINION

On December 7, 2015, relator Brett David Bogus filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221 (West 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this court to compel the Honorable Stacey Bond, presiding judge of the 176th District Court of Harris County, to rule on requests for nunc pro tunc, clerk's record, amended request for clerk's record, arrest of judgment, suspension of execution of sentence, motion to compel counsels to produce evidence

including investigating jurisdiction, motion for production state discovery packet, motion for production of grand jury transcripts, and bill of exception.

To be entitled to mandamus relief compelling a trial court to rule on a properly filed motion, 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 Thompson*, 14-14-00247-CV, 2014 WL 1482486, at *1 (Tex. App.—Houston [14th Dist.] Apr. 15, 2014, orig. proceeding); *In re Molina*, 94 S.W.3d 885, 886 (Tex. App.—San Antonio 2003, orig. proceeding). As the party seeking relief, relator has the burden of providing this court with a sufficient record to establish his right to mandamus relief. *See Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992); Tex. R. App. P. 52.7(a)(1) (relator must file with petition “a certified or sworn copy of every document that is material to the relator’s claim for relief and that was filed in any underlying proceeding”). The record must show not only that the motion was filed, but was brought to the attention of the trial court. *See In re Molina*, 94 S.W.3d at 886; *In re Layton*, 257 S.W.3d 794, 795 (Tex. App.—Amarillo 2008, orig. proceeding).

Relator has not provided this court with a record that shows that he requested the relief he seeks in his petition from the trial court and that the trial court failed to rule on the requested relief within a reasonable time. Accordingly, we deny relator’s petition for writ of mandamus.

PER CURIAM

Panel consists of Justices Christopher, McCally, and Busby.
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