

**Petition for Writ of Mandamus Denied and Opinion filed March 23, 2017.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-17-00188-CR**

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**IN RE LEONARD CHARLES HICKS, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS  
262nd District Court  
Harris County, Texas  
Trial Court Cause No. 1373854-A**

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**MEMORANDUM OPINION**

On March 13, 2017, relator Leonard Charles Hicks 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 complains that the respondent, the Honorable Denise Bradley, presiding judge of the 262nd District Court of Harris County, has not ruled on his motion to recuse her that he filed in connection with his post-conviction application for writ of habeas corpus. *See Hicks v. State*, No. 14-14-00263-CR, 2015 WL 3994968 (Tex. App.—Houston [14th Dist.] June 30,

2015, pet. ref'd) (mem. op.) (not designated for publication) (affirming relator's conviction for aggravated sexual assault of a child). Relator asks that we compel the respondent to either recuse herself or refer the motion to recuse to the presiding judge of the local administrative district. We deny the petition.

To be entitled to mandamus relief in a criminal case, a relator must show that he has no adequate remedy at law to redress his alleged harm, and that what he seeks to compel is a ministerial act, not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Ct. of Appeals*, 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). A relator must establish 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); *In re Villarreal*, 96 S.W.3d 708, 710 (Tex. App.—Amarillo 2003, orig. proceeding) (relator must show that trial court received, was aware of, and was asked to rule on motion).

Relator has not established that the motion to recuse the respondent was properly filed and that the trial court was asked to rule on it but failed to do so. It is relator's burden to provide this court with a record sufficient to establish his right to relief. *Walker v. Packer*, 827 S.W.2d 833, 837 (Tex. 1992); Tex. R. App. P. 52.3(k), 52.7(a).

Accordingly, we deny relator's petition for writ of mandamus.

PER CURIAM

Panel consists of Justices Boyce, Jamison, and Brown.  
Do Not Publish — Tex. R. App. P. 47.2(b).