

Petition for Writ of Mandamus Denied and Memorandum Opinion filed May 11, 2017.



In The

Fourteenth Court of Appeals

NO. 14-17-00339-CR

NO. 14-17-00340-CR

NO. 14-17-00341-CR

IN RE MICHAEL DAVIS, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
228th District Court
Harris County, Texas
Trial Court Cause Nos. 331288, 331289 & 331549**

MEMORANDUM OPINION

On May 1, 2017, relator Michael Davis 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 Marc

Carter, presiding judge of the 228th District Court of Harris County, to rule on his motion to compel the Harris County District Clerk to comply with Judge Carter's order, which granted relator a free copy of the clerk's file.

On January 12, 2016, the trial court signed an order granting relator a free copy of the clerk's file. Relator asserts that the District Clerk has only provided him with a partial record. Relator wrote the District Clerk requesting that he comply with the trial court's order. Relator states that he filed a motion to compel the District Clerk to comply with the order.

To be entitled to mandamus relief, a relator must show that he has no adequate remedy at law for obtaining the relief he seeks; and (2) what he seeks to compel involves a ministerial act rather than a discretionary act. *In re Powell*, No. WR-85,177-01, — S.W.3d —, —, 2017 WL 1244452, at *4 (Tex. Crim. App. Apr. 5, 2017) (orig. proceeding). A trial court has a ministerial duty to consider and rule on motions properly filed and pending before it, and mandamus may issue to compel the trial court to act. *In re Henry*, 14-17-00250-CR, — S.W.3d —, —, 2017 WL 1450573, at *1 (Tex. App.—Houston [14th Dist.] Apr. 21, 2017, orig. proceeding).

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 or refused to rule on the motion within a reasonable time. *Id.* It is relator's burden to provide a sufficient record to establish that he is entitled to relief. *See Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992) (orig. proceeding). Relator has not done so. Relator has not

included a filed-stamped copy of his motion to compel, establishing that it is pending in the trial court. *Henry*, 2017 WL 1450573, at *1.

Relator has not shown that he is entitled to mandamus relief. Accordingly, we deny relator's petition for writ of mandamus.

PER CURIAM

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Do Not Publish — Tex.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