

Petition for Writ of Mandamus Denied and Memorandum Opinion filed June 1, 2017.



In The

Fourteenth Court of Appeals

NO. 14-17-00402-CR

IN RE JOHN ROBERT GRAY, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
230th District Court
Harris County, Texas
Trial Court Cause No. 481656**

MEMORANDUM OPINION

On May 19, 2017, relator John Robert Gray 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 Brad Hart, presiding judge of the 230th District Court of Harris County, to compel the Classification and Records Director for the Texas Department of Criminal Justice to grant relator 4,096 calendar days as time served.

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 shown that he requested that the trial court compel the Director to grant relator the additional days as time served. Relator has not included a filed-stamped copy of any motion requesting such relief from the trial court. *See 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 Christopher, Brown, and Wise.
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