

Petition for Writ of Mandamus Denied and Memorandum Opinion filed August 15, 2017.



In The

Fourteenth Court of Appeals

NO. 14-17-00626-CR

NO. 14-17-00627-CR

NO. 14-17-00628-CR

IN RE STEVEN KURT BAUGHMAN, Relator

ORIGINAL PROCEEDING

WRIT OF MANDAMUS

174th District Court

Harris County, Texas

Trial Court Cause Nos. 1423420, 1423421 & 1532840

MEMORANDUM OPINION

On July 31, 2017, relator Steven Kurt Baughman 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 Hazel B. Jones, presiding judge of the 174th District Court of Harris County, to

conduct a *Faretta* hearing because he has asserted his Sixth Amendment right to self-representation.¹

To be entitled to mandamus relief, a relator must show that (1) he has no adequate remedy at law; and (2) what he seeks to compel is a ministerial act. *In re Bonilla*, 424 S.W.3d 528, 533 (Tex. Crim. App. 2014). 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*, No. 14-17-00250-CR, — S.W.3d —, 2017 WL 1450573, at *1 (Tex. App.—Houston [14th Dist.] Apr. 21, 2107, 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.*

Relator states that he filed a motion for self-representation in the trial court and the trial court has not ruled on his motion. Relator requests that this court take judicial notice of Harris County public records to verify the filing of his motion, among other actions. Relator has not taken the steps necessary for this court to take judicial notice. *See* Tex. R. Evid. 201(c)(2). Even if he had, relator has not alleged or shown that the motion has been properly presented to the trial court. Filing a document with the district clerk does not impute the clerk's knowledge of the filing to the trial court. *In re Chavez*, 62 S.W.3d 225, 228 (Tex. App.—El Paso 2001, orig.

¹ *Faretta v. California*, 422 U.S. 806 (1975). The purpose of a *Faretta* hearing is for the trial court to caution the defendant regarding the dangers and disadvantages of self-representation and to ascertain whether the defendant's decision to represent himself is a knowing and voluntary one. *Id.* at 835.

proceeding). The trial court is not required to consider a motion that has not been called to its attention by proper means. *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 Chief Justice Frost and Justices Jamison and Busby.
Do Not Publish — Tex. R. App. P. 47.2(b).