

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-15-00444-CR

IN RE KENNETH SCOTT

Original Proceeding
Criminal District Court of Jefferson County, Texas
Trial Cause Nos. 08-04332, 08-04334, 08-04484

MEMORANDUM OPINION

Relator Kenneth Scott seeks a writ of mandamus requiring the trial court to grant him additional jail time credit. Scott alleges that he filed a motion to correct the amount of jail time credited to him, but the trial court has not ruled on his motion.

Mandamus may issue to compel a trial court to rule on a motion that has been pending before the court for a reasonable period of time. *See In re Hearn*, 137 S.W.3d 681, 685 (Tex. App.—San Antonio 2004, orig. proceeding). However, to obtain mandamus relief for the trial court's failure to rule on such a motion, a relator must establish that (1) the motion was properly filed and has been pending

for a reasonable time, (2) relator requested a ruling on the motion, and (3) the trial court refused to rule. *In re Sarkissian*, 243 S.W.3d 860, 861 (Tex. App.—Waco 2008, orig. proceeding). Merely filing a motion with the trial court clerk does not constitute a request that the trial court rule on the motion. *Id.* A relator must provide a record establishing that his motion has awaited disposition for an unreasonable time. *In re Mendoza*, 131 S.W.3d 167, 168 (Tex. App.—San Antonio 2004, orig. proceeding); *see also* Tex. R. App. P. 52.7(a)(1) (Relator must file with the petition a certified or sworn copy of every document that is material to his claim for relief and that was filed in any underlying proceeding.).

Scott did not provide a copy of the motion, and he does not provide documentation of what efforts he made to obtain a ruling from the trial court on the motion. In addition, Scott does not provide documents supporting his alleged entitlement to additional jail-time credit. *See In re Sarkissian*, 243 S.W.3d at 861; *In re Mendoza*, 131 S.W.3d at 168; *see also* Tex. R. App. P. 52.7(a)(1). Therefore, Scott has failed to establish that he is entitled to mandamus relief. Accordingly, we deny the petition for writ of mandamus.

PETITION DENIED.

PER CURIAM

Submitted on November 17, 2015
Opinion Delivered November 18, 2015
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Before McKeithen, C.J., Horton and Johnson, JJ.