

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-17-00035-CR**

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**IN RE RONALD JAMISON ROBERTS**

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**Original Proceeding**  
**9th District Court of Montgomery County, Texas**  
**Trial Cause No. 07-04-04250-CR**

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**MEMORANDUM OPINION**

Ronald Jamison Roberts filed a petition for mandamus relief through which he seeks to compel the convicting court to rule on a motion to alter the judgment after the expiration of the trial court’s plenary power over the case. To obtain mandamus relief in a criminal case, the relator must show that he has a clear and indisputable right to the relief sought. *State ex rel. Rosenthal v. Poe*, 98 S.W.3d 194, 198 (Tex. Crim. App. 2003). Generally, the trial court has a duty to rule on a properly and timely filed motion within a reasonable time. *See State ex rel. Curry v. Gray*, 726 S.W.2d 125, 128 (Tex. Crim. App. 1987). But a trial court “does not have a duty

to rule on free-floating motions unrelated to currently pending actions. In fact, it has no jurisdiction to rule on a motion when it has no plenary jurisdiction coming from an associated case.” *In re Cash*, No. 06-04-00045-CV, 2004 WL 769473, at \*1 (Tex. App.—Texarkana Apr. 13, 2004, orig. proceeding) (mem. op.). Roberts cites no authority for the trial court to act on a motion to alter the judgment at this time.

Roberts’ motion alleges that court-appointed attorney fees were not authorized by Article 26.05(g) of the Texas Code of Criminal Procedure because there had been no finding that Roberts was no longer indigent. *See generally* Tex. Code Crim. Proc. Ann. art. 26.05(g) (West Supp. 2016). The trial court would logically construe this motion as a collateral attack on the criminal judgment and not as an invocation of the trial court’s civil enforcement jurisdiction over its judgment.<sup>1</sup>

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<sup>1</sup> Neither Roberts nor the State argue that this case is analogous to *Harrell v. State*, which held that a post-judgment collection action to enforce a money judgment pursuant to a civil statute is a civil proceeding. 286 S.W.3d 315, 318–19 (Tex. 2009). An attempt to collect court-appointed attorney’s fees through section 501.014 of the Government Code may be challenged in the trial court by invoking the trial court’s civil jurisdiction to enforce its judgment, and the trial court’s order on such a motion may be appealed as in analogous civil post-judgment enforcement actions. *Id.* at 321; *see also* Tex. Gov’t Code Ann. § 501.014(e) (West Supp. 2016). The issue in this case is whether the trial court failed to perform a ministerial duty to hear Roberts’s motion. We do not decide whether a hold on a driver’s license renewal under section 706.004 of the Transportation Code may be challenged in the same manner as an order to collect against an inmate account. *See generally* Tex. Transp. Code Ann. § 706.004 (West 2011).

Roberts has neither shown that he has a clear and indisputable right to have the trial court consider and rule upon his motion at this time, nor has Roberts shown that he is presently entitled to mandamus relief from this Court. Accordingly, we deny the petition for writ of mandamus.

PETITION DENIED.

PER CURIAM

Submitted on February 13, 2017  
Opinion Delivered March 8, 2017  
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Before McKeithen, C.J., Kreger and Horton, JJ.