



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-22-00183-CR

IN RE ANTHONY SCOTT BROWN, RELATOR

ORIGINAL PROCEEDING

July 25, 2022

MEMORANDUM OPINION

Before QUINN, C.J., and PARKER and DOSS, JJ.

Anthony Scott Brown (relator) filed his pro se petition for writ of mandamus. Through it, he asks this Court to compel the Honorable Dan Schaap, 47th District Court, to rule on his pro se “Motion in Arrest of Judgment/New Trial.” Relator filed that motion on May 18, 2022. We deny the petition as moot.

The State convicted relator of a first-degree felony, namely possessing with intent to deliver between four and 200 grams of methamphetamine. A seventy-five-year prison sentence followed. Thereafter, the trial court appointed appellate counsel to represent relator on appeal, which counsel then perfected that appeal. Despite having counsel, relator tendered the aforementioned pro se motion in arrest of judgment/new trial.

A motion for new trial is deemed denied by operation of law if the trial court fails to rule upon it within seventy-five days after imposing or suspending sentence in open court. TEX. R. APP. P. 21.8(c). The same is true of a motion in arrest of judgment. TEX. R. APP. P. 22.4(b). According to the clerk's record filed in relator's appeal, a record of which we take judicial notice, the trial court imposed the sentence on April 14, 2022. June 28 served as the seventy-fifth day from April 14. Thus, appellant's motion to arrest judgment and for new trial was denied by operation of law before he petitioned this Court for a writ of mandamus, that date being July 5, 2022. So, his request for relief is moot. His motion was denied, and there is no need for us to direct the trial court to act upon it. And, we deny the petition for writ of mandamus for that reason.

Per Curiam

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