



IN THE
TENTH COURT OF APPEALS

No. 10-19-00471-CR

IN RE CHRISTOPHER KEITH SCHMOTZER

Original Proceeding

MEMORANDUM OPINION

Relator, Christopher Keith Schmotzer, seeks a writ of mandamus to compel Respondent, the trial court, to rule on a post-conviction motion to release *Brady*¹ materials which was filed on or about June 14, 2019. Relator has sworn that on or about September 3, 2019, he filed a motion to compel a ruling by Respondent on Relator's previously filed motion. The Court requested a response to Relator's Petition from Respondent and the Real-Party-in-Interest, the State. The Court noted that if Respondent ruled on the motion, the ruling would be accepted in lieu of a response and that the ruling would render this mandamus proceeding moot. No response has been received by the Court.

¹ *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

Respondent has a ministerial duty to timely rule on a properly filed motion. *State ex rel. Hill v. Court of Appeals for the Fifth Dist.*, 34 S.W.3d 924, 927 (Tex. Crim. App. 2001). Neither the Respondent nor the Real-Party-in-Interest has responded to explain why the motion is not properly filed or why the Respondent needs more than six months to rule on the motion.

Accordingly, Relator's Petition for Writ of Mandamus is conditionally granted. The Court is confident that the Respondent will rule on the pending motions within 14 days. However, if the Respondent fails or refuses to rule, the writ of mandamus will issue.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Neill

Petition conditionally granted
Opinion delivered and filed February 5, 2020
Do not publish
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