

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-17-00426-CV**

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**In re Robert Brown III**

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**ORIGINAL PROCEEDING FROM WILLIAMSON COUNTY**

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**MEMORANDUM OPINION**

Relator Robert Brown III, an inmate proceeding pro se, has filed a petition for writ of mandamus asking this Court to compel the 277th District Court of Williamson County to rule on Brown’s motion to unseal certain police records and documents pertaining to his 2006 conviction for the offense of indecency with a child.<sup>1</sup> In his petition, Brown also asks this Court to: (1) compel the district clerk to “give a page count and price to obtain the listed documents”; (2) “overturn” a letter ruling of the Office of the Attorney General stating that the requested records should be withheld; and (3) compel the City of Georgetown to provide the records to Brown.

We do not have jurisdiction to issue a writ of mandamus against the district clerk, the Office of the Attorney General, or the City of Georgetown unless doing so would be necessary to enforce this Court’s jurisdiction.<sup>2</sup> Such circumstances are not present here. To the extent that Brown’s mandamus petition is directed at the district court itself, we cannot conclude on this record

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<sup>1</sup> See *Brown v. State*, No. 03-06-00526-CR, 2007 Tex. App. LEXIS 6156 (Tex. App.—Austin Aug. 1, 2007, pet. ref’d) (mem. op., not designated for publication).

<sup>2</sup> See Tex. Gov’t Code § 22.221(a), (b).

that Brown is entitled to relief. To be entitled to mandamus relief for a trial court's failure to rule on a properly filed motion, a relator must first establish that the court: (1) had a legal duty to rule on the motion; (2) was asked to rule on the motion; and (3) either refused to rule on the motion or failed to rule within a reasonable time.<sup>3</sup> Here, Brown claims to have mailed his motion to the district court on April 20, 2017. Even if we were to assume that the motion was received by the district court shortly thereafter, we could not conclude on this record that this constitutes an unreasonable length of time for a motion to remain pending.<sup>4</sup> Moreover, there is no file stamp on the motion or other evidence in the record indicating whether the motion was actually filed by the district court and, if so, whether or when it was brought to the district court's attention.<sup>5</sup>

We deny the petition for writ of mandamus.<sup>6</sup>

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<sup>3</sup> See *In re Foster*, 503 S.W.3d 606, 606-07 (Tex. App.—Houston [14th Dist.] 2016, orig. proceeding); *In re Blakeney*, 254 S.W.3d 659, 661-63 (Tex. App.—Texarkana 2008, orig. proceeding); *In re Keeter*, 134 S.W.3d 250, 252 (Tex. App.—Waco 2003, orig. proceeding); *Ex parte Bates*, 65 S.W.3d 133, 134-36 (Tex. App.—Amarillo 2001, orig. proceeding); *Barnes v. State*, 832 S.W.2d 424, 426-27 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding).

<sup>4</sup> See, e.g., *Blakeney*, 254 S.W.3d at 662-63; *Bates*, 65 S.W.3d at 136; *In re Chavez*, 62 S.W.3d 225, 229 (Tex. App.—Amarillo 2001, orig. proceeding); see also *In re Urtado*, No. 03-15-00710-CV, 2015 Tex. App. LEXIS 11993, at \*3 (Tex. App.—Austin Nov. 24, 2015, orig. proceeding) (mem. op., not designated for publication); *In re Aleman*, No. 03-15-00390-CV, 2015 Tex. App. LEXIS 8924, at \*3 (Tex. App.—Austin Aug. 26, 2015, orig. proceeding) (mem. op., not designated for publication).

<sup>5</sup> See *In re Villarreal*, 96 S.W.3d 708, 710 (Tex. App.—Amarillo 2003, orig. proceeding); *In re Halley*, No. 03-15-00310-CV, 2015 Tex. App. LEXIS 7188, at \*4-5 (Tex. App.—Austin Jul. 14, 2015, orig. proceeding) (mem. op., not designated for publication).

<sup>6</sup> See Tex. R. App. P. 52.8(a).

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Bob Pemberton, Justice

Before Chief Justice Rose, Justices Pemberton and Goodwin

Filed: August 16, 2017