

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-24-00244-CV

In re Luke Masood Arabzadegan

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relator Luke Masood Arabzadegan, an inmate proceeding pro se, has filed a petition for writ of mandamus complaining of the trial court’s failure to rule or act on his “Motion for Discovery” and related filings, which he claims to have mailed to the district clerk on November 6, 2023.

To be entitled to mandamus relief, Relator must demonstrate he has no adequate remedy at law and what he seeks to compel is a ministerial act, not involving a discretionary or judicial decision. *See In re Meza*, 611 S.W.3d 383, 388 (Tex. Crim. App. 2020). When mandamus relief is premised on the trial court’s alleged failure to rule or act on a properly filed motion, Relator must establish that the trial 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. *See In re Tarkington*, No. 03-23-00499-CV, 2023 WL 5622087, at *1 (Tex. App.—Austin Aug. 31, 2023, orig. proceeding); *In re Whitfield*, No. 03-18-00564-CV, 2018 WL 4140735, at *1 (Tex. App.—Austin Aug. 29, 2018, orig. proceeding). Here, Relator

has failed to provide a file-stamped copy of his motion or any other evidence in the record demonstrating that the district court received his filing, that the motion was properly filed, or that he brought the motion to the trial court's attention or requested a ruling on the motion. *See In re Tarkington*, 2023 WL 5622087, at *1–2; *In re Smith*, No. 03-21-00188-CV, 2021 WL 1773512, at *1 (Tex. App.—Austin May 5, 2021, orig. proceeding).

On this record, we deny the petition for writ of mandamus. *See* Tex. R. App. P. 52.8(a).¹

Darlene Byrne, Chief Justice

Before Chief Justice Byrne, Justices Triana and Kelly

Filed: May 2, 2024

¹ Relator also presented a motion for leave to file his petition for writ of mandamus. Leave is not required to file a petition for a writ of mandamus in the courts of appeals, only the Court of Criminal Appeals. *See* Tex. R. App. P. 52 *Notes and Comments*, 72.1. Relator's motion is therefore dismissed as moot.