



NUMBER 13-08-00479-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE GILBERTO RODRIGUEZ

On Petition for Writ of Mandamus

MEMORANDUM OPINION

Before Justices Rodriguez, Garza, and Vela
Memorandum Opinion Per Curiam¹

On August 11, 2008, relator, Gilberto Rodriguez, pro se, filed a petition for writ of mandamus seeking to compel the trial court to give relator credit on his sentence for the time that relator served from the time of his arrest and confinement until he was sentenced. The trial court has the authority to correct the omission of presentence jail credit through judgment nunc pro tunc. See *Ex parte Ybarra*, 149 S.W.3d 147, 148 (Tex. Crim. App. 2004). Mandamus is available to compel the trial court to respond to a nunc pro tunc motion for presentence jail credit. *Id.* at 149. In this case, however, the petition generally

¹See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

fails to comply with Texas Rule of Appellate Procedure 52.3. Further, the relator has not shown that he is entitled to the relief sought or that his motion for a nunc pro tunc judgment awaited disposition for an unreasonable length of time under the circumstances. See *Ex parte Bates*, 65 S.W.3d 133, 134-35 (Tex. App.–Amarillo 2001, orig. proceeding). Moreover, relator failed to demonstrate that the act sought to be compelled is purely ministerial and the relator has a clear and indisputable right to relief. See *State ex rel. Hill v. Court of Appeals for the Fifth Dist.*, 34 S.W.3d 924, 927-28 (Tex. Crim. App. 2001). Accordingly, the petition for writ of mandamus is DENIED.

PER CURIAM

Do not publish.
TEX. R. APP. P. 47.2(b).

Memorandum Opinion delivered and filed
this 14th day of August, 2008.