

NOS. 12-11-00294-CR
12-11-00295-CR
12-11-00296-CR

IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
CRAIG STEPHEN BROWN, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Relator Craig Stephen Brown has filed a pro se petition for writ of mandamus complaining of the trial court's alleged failure to rule on matters in the underlying causes (trial court cause numbers 15882008, 158892008, and 158902008).

A trial court is required to consider and rule on a motion within a reasonable time. *In re Ramirez*, 994 S.W.2d 682, 683 (Tex. App.–San Antonio 1998, orig. proceeding). When a motion is properly filed and pending before a trial court, the act of giving consideration to and ruling upon that motion is a ministerial act, and mandamus may issue to compel the trial court to act. *Id.* However, to obtain mandamus relief for the trial court's refusal to rule on a motion, a relator must establish that (1) the motion was properly filed and has been pending for an unreasonable time; (2) the relator requested a ruling on the motion; and (3) the trial court failed or refused to rule. *See In re Hearn*, 137 S.W.3d 681, 685 (Tex. App.–San Antonio 2004, orig. proceeding). The relator has the burden of providing a record establishing that a reasonable time has passed and the trial court has failed or refused to rule on the motion. *In re Mendoza*, 131 S.W.3d 167, 168 (Tex. App.–San Antonio 2004, orig. proceeding). Moreover, merely filing a motion with a trial court clerk is not a request that the trial court rule on the motion. *See Hearn*, 137 S.W.3d at 685.

Here, Relator has failed to provide a copy of the motions that are the subject of this proceeding, any correspondence to the district court requesting a ruling on the motions, or any document suggesting that the trial court has refused to rule on the motion. *See* TEX. R. APP. P. 52.7(a) (relator must file with petition “a certified or sworn copy of every document that is material to the relator’s claim for relief and that was filed in any underlying proceeding”). Consequently, we cannot determine whether the motions were properly filed, or if they were, the date on which they were received by either the clerk’s office or the trial court and whether the trial court has had a reasonable time to rule on the motions or has refused to rule on them. Accordingly, the petition for writ of mandamus is ***denied***.

Opinion delivered October 31, 2011.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)