

NO. 12-11-00336-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE:

§

BRANDON CROCKER,

§

ORIGINAL PROCEEDING

RELATOR

§

***MEMORANDUM OPINION
PER CURIAM***

In this original proceeding, Relator Brandon Crocker seeks a writ of mandamus against the trial court for its failure to rule on his motion for a nunc pro tunc order.¹ We deny the petition.

In a criminal case, mandamus relief is authorized only if the relator establishes that (1) he has no other adequate legal remedy and (2) under the facts and the law, the act sought to be compelled is purely ministerial. *State ex rel. Hill v. Fifth Court of Appeals*, 34 S.W.3d 924, 927 (Tex. Crim. App. 2001). Where, as here, a relator alleges that a trial court has failed to rule on a properly filed motion, he must show that he has asked the trial court to rule and the trial court has either refused to rule, or has failed to rule within a reasonable time. *See Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.–Houston [1st Dist.] 1992, orig. proceeding).

Relator has not furnished a record in this proceeding. *See* TEX. R. APP. P. 52.7(a) (requiring a relator to file a certified or sworn copy of every document material to his claim). Therefore, Relator has not provided a copy of the motion that is the subject of this proceeding. Nor has he provided any document that shows Relator brought the motion to the attention of the trial court or that the trial court refused to rule, or failed to rule within a reasonable time.

¹ The respondent is the Honorable Jack Skeen, Jr., Judge of the 241st Judicial District Court, Smith County, Texas.

Therefore, Relator has not shown any abuse of discretion by the trial court. Accordingly, Relator's petition for writ of mandamus is *denied*.

Opinion delivered November 2, 2011.

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

(DO NOT PUBLISH)