

NO. 12-17-00050-CR
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
WILLIE DONNELL BEASLEY, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Relator Willie Donnell Beasley was convicted of aggravated robbery. His sentence was imposed on April 8, 1999. In this original mandamus proceeding, Relator provided a copy of his “Motion for Live Evidentiary Hearing,” which he filed in the trial court on or about September 21, 2016. In the motion, he identifies certain errors he contends occurred at trial and informs the trial court that these errors require a new trial on punishment. Specifically, he argued that he is entitled to “resentencing” because (1) the judgment failed to make a “deadly weapon” finding and (2) the indictment contained “illegal” enhancement allegations. In his petition to this court, Relator asserts that the trial court has failed to rule on this motion and others based on similar allegations. He requests a writ of mandamus directing the trial court to rule on the motions.

A trial court has a ministerial duty to rule upon a properly filed and timely presented motion. *See State ex rel. Young v. Sixth Judicial Dist. Court of Appeals*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding). In general, however, it does not have a duty to rule on “free-floating motions unrelated to currently pending actions . . . [and] has no jurisdiction to rule on a motion when it has no plenary jurisdiction coming from an associated case.” *In re Cash*, No. 06-04-00045-CV, 2004 WL 769473, at *1 (Tex. App.–Texarkana Apr. 13, 2004, orig. proceeding) (mem. op.). In a criminal case, assuming a party timely files a post judgment motion, the trial court’s plenary power expires, at most, one hundred five days after the date sentence is imposed. *See, e.g., Ex parte Matthews*, 452 S.W.3d 8, 13 (Tex. App.–San Antonio 2014, orig. proceeding).

Here, Relator makes no mention of any post judgment motions and asserts that he appealed his 1999 conviction to this court and that this court affirmed the conviction. Nonetheless, by the time he filed the subject motions in 2016, the trial court's plenary power had long since expired. *See, e.g., id.* Because the trial court's plenary power has expired, it has no jurisdiction to rule on Relator's motion. Accordingly, Relator is not entitled to mandamus relief, and we **deny** his petition for writ of mandamus. *See In re Gibson*, No. 12-16-00271-CR, 2016 WL 5845831, at *1 (Tex. App.–Tyler Sept. 30, 2016, orig. proceeding) (mem. op., not designated for publication).

Opinion delivered February 22, 2017.

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

(DO NOT PUBLISH)



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

FEBRUARY 22, 2017

NO. 12-17-00050-CR

WILLIE DONNELL BEASLEY,
Relator
V.

HON. DAN MOORE,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Willie Donnell Beasley; who is the relator in Cause No. A-9192, pending on the docket of the 173rd Judicial District Court of Henderson County, Texas. Said petition for writ of mandamus having been filed herein on February 13, 2017, and the same having been duly considered, because it is the opinion of this Court that the writ should not issue, it is therefore CONSIDERED, ADJUDGED and ORDERED that the said petition for writ of mandamus be, and the same is, hereby **denied**.

By *per curiam* opinion.
Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.