

**NOS. 12-22-00252-CR
12-22-00253-CR
12-22-00254-CR**

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

IN RE: §
RAYMOND LEE BURNS, JR., § *ORIGINAL PROCEEDING*
RELATOR §

***MEMORANDUM OPINION
PER CURIAM***

Raymond Lee Burns, Jr., acting pro se, filed this original proceeding to challenge Respondent’s failure to rule on his “Motion for Arrest of Judgment.”¹ The motion in Relator’s appendix is dated September 9, 2022.²

“If a party properly files a motion with the trial court in a criminal case, the court has a ministerial duty to rule on the motion within a reasonable time after the motion has been submitted to the court for a ruling or after the party has requested a ruling.” *In re Gomez*, 602 S.W.3d 71, 73 (Tex. App.—Houston [14th Dist.] 2020, orig. proceeding). Assuming Relator’s motion was properly filed and called to Respondent’s attention, Respondent has possibly been aware of the motion for only a short time. See *In re Dong Sheng Huang*, 491 S.W.3d 383, 385-86 (Tex. App.—Houston [1st Dist.] 2016, orig. proceeding) (“Filing a request for a ruling is

¹ Respondent is the Honorable Edwin Klein, Judge of the 420th District Court in Nacogdoches County, Texas. The State of Texas is the Real Party in Interest.

² This Court previously dismissed Relator’s appeal of his convictions for want of jurisdiction and likewise dismissed his appeal of an order denying several motions. See *Burns v. State*, No. 12-22-00036-CR, 2022 WL 868784 (Tex. App.—Tyler Mar. 23, 2022, no pet.) (per curiam) (mem. op., not designated for publication); *Burns v. State*, No. 12-18-00363-CR, 2019 WL 210822 (Tex. App.—Tyler Jan. 16, 2019, pet. ref’d) (per curiam) (mem. op., not designated for publication).

insufficient to call the matter to the judge's attention because a judge may be unaware of the request. Instead, the party demanding a ruling must set its request either for submission or a hearing”). Accordingly, a reasonable time for responding to Relator’s request for a ruling has not passed. See *In re Ramos*, 598 S.W.3d 472, 474 (Tex. App.—Houston [14th Dist.] 2020, orig. proceeding) (judge had been aware of motion for judgment nunc pro tunc approximately five months before appellate court opinion; thus, judge did not rule on motion within reasonable time); see also *In re Sayyed*, No. 05-20-00195-CV, 2020 WL 6074117, at *3 (Tex. App.—Dallas Oct. 15, 2020, orig. proceeding) (mem. op. on reh’g) (at time of October 2020 opinion, respondent had learned of the motion on July 1, 2020; thus, reasonable time for ruling had not passed).

Accordingly, we conclude Relator has not shown an entitlement to mandamus relief. We **deny** the petition for writ of mandamus.

Opinion delivered September 30, 2022.

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

SEPTEMBER 30, 2022

NO. 12-22-00252-CR

RAYMOND LEE BURNS, JR.,

Relator

V.

HON. EDWIN KLEIN,

Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Raymond Lee Burns, Jr.; who is the relator in appellate cause number 12-22-00252-CR and the defendant in trial court cause number F1219203, formerly pending on the docket of the 420th Judicial District Court of Nacogdoches County, Texas. Said petition for writ of mandamus having been filed herein on September 14, 2022, 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.



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V.

HON. EDWIN KLEIN,

Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Raymond Lee Burns, Jr.; who is the relator in appellate cause number 12-22-00253-CR and the defendant in trial court cause number F1219204, formerly pending on the docket of the 420th Judicial District Court of Nacogdoches County, Texas. Said petition for writ of mandamus having been filed herein on September 14, 2022, 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.



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

SEPTEMBER 30, 2022

NO. 12-22-00254-CR

RAYMOND LEE BURNS, JR.,
Relator
V.

HON. EDWIN KLEIN,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Raymond Lee Burns, Jr.; who is the relator in appellate cause number 12-22-00254-CR and the defendant in trial court cause number F1219205, formerly pending on the docket of the 420th Judicial District Court of Nacogdoches County, Texas. Said petition for writ of mandamus having been filed herein on September 14, 2022, 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.