

COURT OF APPEALS FOR THE SIXTH APPELLATE DISTRICT OF TEXAS AT
TEXARKANA

In re John Henry Garber

No. 06-26-00051-CR (Tex. App.—Texarkana Apr. 27, 2026) (mem. op.) · No. 06-26-00051-CR · Decided April 27, 2026

SUMMARY

The Texas Sixth Court of Appeals denied John Henry Garber’s petition for a writ of mandamus seeking to compel a county court to rule on pretrial motions in three misdemeanor cases. The court held that Garber failed to establish a clear right to relief because the record showed he had failed to appear, had outstanding arrest warrants, and had not provided a sufficient record demonstrating entitlement to mandamus relief.

CASE DETAILS

COURT	Court of Appeals for the Sixth Appellate District of Texas at Texarkana
WRITING FOR THE COURT	Jeff Ramin; Stevens, C.J.; van Cleef, J.; Ramin, J.
JURISDICTION	Court of Appeals for the Sixth Appellate District of Texas at Texarkana
DECIDED	April 27, 2026
DOCKET	06-26-00051-CR
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original mandamus proceeding in which Garber sought to compel the County Court of Delta County to rule on pro se pretrial motions in three misdemeanor cases.
STANDARD OF REVIEW	Mandamus relief in a criminal case requires proof that the act sought to be compelled is purely ministerial and that there is no adequate remedy at law. A relator must establish a clear right to relief, satisfy the presentment and reasonable-time requirements for an alleged failure to rule, and provide a record sufficient to demonstrate entitlement to relief.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; marked Do Not Publish.
PARTIES	John Henry Garber v. State of Texas

TOPICS

criminal procedure

appellate procedure

standard of review

remedies

PRACTICE AREAS

criminal procedure

mandamus

appellate procedure

QUESTIONS PRESENTED

1. Whether Garber established a clear right to mandamus relief compelling the trial court to rule on his pretrial motions.
2. Whether the record was sufficient to establish that the trial court failed to perform a ministerial act after the motions were properly presented and a reasonable time to rule had elapsed.

HOLDINGS

1. Garber was not entitled to mandamus relief because he failed to present a record establishing a clear right to relief, particularly in light of his failure to appear and the absence of evidence that he had returned to custody or otherwise made himself available to the trial court.

KEY QUOTATIONS

“Mandamus relief may be granted if a relator shows that: (1) the act sought to be compelled is purely ministerial, and (2) there is no adequate remedy at law.” (at 2)

“Mandamus is not available to compel a discretionary act as distinguished from a ministerial act.” (at 3)

“Based on the registers, Garber’s right to relief is, to put it mildly, unclear.” (at 5)

FACTUAL BACKGROUND

Garber was arrested on a fictitious-license-plate charge and later faced two additional misdemeanor cases involving unlawfully carrying a weapon. After the trial court set a hearing for December 16, 2024, Garber failed to appear, and the court issued arrest warrants in the cases. Garber subsequently filed numerous motions and a mandamus petition, but the record did not show that he had been rearrested, voluntarily returned to custody, or appeared personally; his notice to the trial court stated that he was appearing specially and by paper only.

PROCEDURAL HISTORY

Garber filed eleven motions in three misdemeanor cases after failing to appear at a December 16, 2024 hearing, at which the trial court issued warrants for his arrest. He later filed a petition for writ of mandamus alleging that the trial court had failed to rule on his motions. The Court of Appeals denied the petition because the record did not establish a clear right to relief and indicated that Garber had not appeared or returned to custody.

DISPOSITION

writ_denied

CASES CITED

- In re McCann, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding)
- In re State ex rel. Weeks, 391 S.W.3d 117, 122 (Tex. Crim. App. 2013) (orig. proceeding)
- Bowen v. Carnes, 343 S.W.3d 805, 810 (Tex. Crim. App. 2011) (orig. proceeding)
- State ex rel. Young v. Sixth Jud. Dist. Ct. of Appeals at Texarkana, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding)
- State ex rel. Holmes v. Denson, 671 S.W.2d 896, 899 (Tex. Crim. App. 1984) (orig. proceeding)
- In re Chavez, 62 S.W.3d 225, 228 (Tex. App.—Amarillo 2001, orig. proceeding)
- In re Blakeney, 254 S.W.3d 659, 661, 663 (Tex. App.—Texarkana 2008, orig. proceeding)
- In re Hardy, No. 03-25-00028-CV, 2025 WL 352167, at *1 (Tex. App.—Austin Jan. 31, 2025, orig. proceeding) (mem. op.)
- Lizcano v. Chatham, 416 S.W.3d 862, 863 (Tex. Crim. App. 2011) (orig. proceeding) (Alcala, J., concurring)
- Ortega-Rodriguez v. United States, 507 U.S. 234, 239, 246 (1993)
- Luciano v. State, 906 S.W.2d 523, 525 (Tex. Crim. App. 1995)
- Lewis v. State, 698 S.W.3d 264, 265 (Tex. Crim. App. 2024) (per curiam)

OPINION

In Re John Henry Garber v. the State of Texas

PER CURIAM.

In the Court of Appeals Sixth Appellate District of Texas at Texarkana No. 06-26-00051-CR

IN RE JOHN HENRY GARBER

Original Mandamus Proceeding Before Stevens, C.J., van Cleef and Rambin, JJ. Memorandum Opinion by Justice Rambin

MEMORANDUM OPINION

John Henry Garber seeks a writ of mandamus compelling the County Court of Delta County to rule on several pro se pretrial motions he filed in three misdemeanor cases. 1 The face of the record Garber presents to this Court reveals reason to deny his petition: Garber contends that the trial court has failed to rule when Garber himself has failed to appear. I. Background Garber's petition complains of eleven motions across three misdemeanor cases. Garber's petition, with attachments, is twenty-eight pages. Meaning that the record Garber brings forward is scant, especially in light of the broad relief sought. Included in the record, Garber brings forward the "REGISTER[S] OF ACTIONS" for three cases in the trial court. The registers indicate the following information below. Garber was arrested for displaying a fictitious license plate on May 25, 2024. He was bonded out of jail on that charge on May 27, 2024. On November 14, 2024, new cases were filed against Garber, and the trial court set a hearing for December 16, 2024. Garber did not appear at the hearing, resulting in the trial court issuing a warrant for Garber's arrest. Thereafter, no entries appear on the registers until a spate of filings, beginning on August 18, 2025. Those filings are now the subject of Garber's petition. The registers for the two other cases (both

regarding a charge of unlawfully carrying a weapon) likewise show that Garber bonded out of jail on May 27, 2024, new charges were filed, 1 Garber's trial court cause numbers are 24-060-CCCR-0065, 24-060-CCCR-0066, and 24-060-CCCR-0067. 2 the trial court set a hearing (also on December 16, 2024), Garber did not appear, the trial court issued warrants for Garber's arrest, and thereafter Garber made numerous filings. There is, however, nothing in the record to indicate that Garber has been re-arrested (or has voluntarily returned to custody and then bonded out again). Indeed, Garber's notice and demand for ruling to the trial court begins by stating that he is "appearing specially[,] and by paper only."

II. Standard of Review In a criminal case, "[m]andamus relief may be granted if a relator shows that: (1) the act sought to be compelled is purely ministerial, and (2) there is no adequate remedy at law." In *re* McCann, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding). To establish entitlement to mandamus relief, a relator is required to show that the trial court failed to complete a ministerial act. See *In re State ex rel. Weeks*, 391 S.W.3d 117, 122 (Tex. Crim. App. 2013) (orig. proceeding). An act is considered ministerial "if the relator can show . . . a clear right to the relief sought." *Bowen v. Carnes*, 343 S.W.3d 805, 810 (Tex. Crim. App. 2011) (orig. proceeding) (quoting *State ex rel. Young v. Sixth Jud. Dist. Ct. of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding)). A clear right to the requested relief is shown when the facts and circumstances require but "one rational decision 'under unequivocal, well-settled (i.e., from extant statutory, constitutional, or case law sources), and clearly controlling legal principles.'" In *re* *State ex rel. Weeks*, 391 S.W.3d at 122 (quoting *Bowen*, 343 S.W.3d at 810). "Mandamus is not available to compel a discretionary act as distinguished from a ministerial act." *State ex rel. Holmes v. Denson*, 671 S.W.2d 896, 899 3 (Tex. Crim. App. 1984) (orig. proceeding). The relator also bears the burden to provide a record sufficient to establish his entitlement to relief. See TEX. R. APP. P. 52.3(l), 52.7(a); *In re Chavez*, 62 S.W.3d 225, 228 (Tex. App.—Amarillo 2001, orig. proceeding). In criminal cases, parties seeking a writ of mandamus for a trial court's alleged failure to rule face a presentment requirement (merely filing a motion is not enough, they must ask the trial court for a ruling on that specific motion) and a reasonable time requirement (the trial court must be afforded a reasonable time to rule, even after a motion has been filed and presented to the trial court). In *re* *Blakeney*, 254 S.W.3d 659, 661 (Tex. App.—Texarkana 2008, orig. proceeding); *In re Hardy*, No. 03-25-00028-CV, 2025 WL 352167, at *1 (Tex. App. Austin Jan. 31, 2025, orig. proceeding) (mem. op.) (citing *In re Blakeney*, 254 S.W.3d at 661). The reasonable time requirement is dependent on the circumstances of each case, and even the trial court's overall docket. In *re* *Blakeney*, 254 S.W.3d at 663; *In re Hardy*, 2025 WL 352167, at *1. A party seeking mandamus relief has the burden of providing the appellate court with a sufficient record to establish its right to mandamus relief. *Lizcano v. Chatham*, 416 S.W.3d 862, 863 (Tex. Crim. App. 2011) (orig. proceeding) (Alcala, J., concurring).

III. Analysis Mailing in complaints to a court of appeals while you are on the run from the law is rarely successful. See *Ortega-Rodriguez v. United States*, 507 U.S. 234, 239 (1993) ("It has been settled for well over a century that an appellate court may

dismiss the appeal of a defendant who is a fugitive from justice during the pendency of his appeal.”). Under such circumstances, dismissal of the appeal does not abridge the constitutional rights of the appellant. See *id.* at 239–4

40. “[A]n appellate court may employ dismissal as a sanction when a defendant’s flight operates as an affront to the dignity of the court’s proceedings.” *Id.* at 246. The Texas Court of Criminal Appeals has held to the same effect: “In our view, the dignity of an appellate court is maligned by an appellant who attempts to access the power of the judicial system to reverse a conviction, while at the same time treating with contemptuous disregard the authority of the judiciary to mandate his incarceration.” *Luciano v. State*, 906 S.W.2d 523, 525 (Tex. Crim. App. 1995). In a regular appeal, we would be required to dismiss based on an affidavit from the State: “The appellate court must dismiss an appeal on the State’s motion, supported by affidavit, showing that the appellant has escaped from custody pending the appeal and that to the affiant’s knowledge, the appellant has not, within ten days after escaping, voluntarily returned to lawful custody within the state.” TEX. R. APP. P. 42.4. Were we to consider a regular appeal under such circumstances, it would be a waste of judicial resources. See *Lewis v. State*, 698 S.W.3d 264, 265 (Tex. Crim. App. 2024) (*per curiam*) (“order[ing] the court of appeals to withdraw its opinion” once the State submitted a Rule 42.4 affidavit). This is not a regular appeal. This is a petition for an extraordinary writ of mandamus. Garber bears the burden to bring forward a complete record and to show a clear right to relief based on the record. Based on the registers, Garber’s right to relief is, to put it mildly, unclear. 5 We deny Garber’s petition for a writ of mandamus. Jeff Rambin Justice Date Submitted: April 24, 2026 Date Decided: April 27, 2026 Do Not Publish 6