

COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO

In re Hal Von Luebbert

No. 07-26-00229-CV (Tex. App.—Amarillo June 8, 2026) · No. 07-26-00229-CV · Decided June 8, 2026

SUMMARY

The Seventh Court of Appeals of Texas denied Hal Von Luebbert’s petition for a writ of mandamus seeking to compel the County Court at Law No. 3 of Lubbock County to rule on his motion for summary judgment and other pending motions. The court held that the delay was not unreasonable and that Relator failed to establish the trial court’s refusal to act or provide copies of the motions as required by Texas Rule of Appellate Procedure 52.3(l).

CASE DETAILS

COURT	Court of Appeals for the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Alex Yarbrough; Parker, C.J.; Doss, J.; Yarbrough, J.
JURISDICTION	Court of Appeals for the Seventh District of Texas at Amarillo
DECIDED	June 8, 2026
DOCKET	07-26-00229-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original proceeding in which the relator sought a writ of mandamus compelling the county court judge to rule on a motion for summary judgment and other pending motions and to stay the trial date.
STANDARD OF REVIEW	Mandamus requires proof that the trial court abused its discretion and that the relator lacks an adequate remedy by appeal. An abuse of discretion requires action that is unreasonable, arbitrary, or without reference to guiding rules or principles. A relator seeking to compel a ministerial act must also show a legal duty to act, a demand for performance, and a refusal to act.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Hal Von Luebbert, Relator v. State of Texas

TOPICS

- appellate procedure
- standard of review
- summary judgment
- civil procedure
- remedies

PRACTICE AREAS

Civil procedure

Appellate procedure

Mandamus

QUESTIONS PRESENTED

1. Whether the trial court's failure to rule on the relator's motion for summary judgment after approximately two and a half months constituted an abuse of discretion remediable by mandamus.
2. Whether the relator established the elements necessary to compel a ministerial act, including a legal duty, demand, and refusal to act.
3. Whether the relator was entitled to mandamus relief concerning other pending motions or a stay of the trial date when he did not provide copies of the motions.

HOLDINGS

1. Considering and ruling on a properly pending motion is a ministerial act, but the trial court has a reasonable time to perform that duty.
2. A delay of slightly more than two and a half months, without proof of an overt refusal to act, was not shown to be unreasonable or to constitute an abuse of discretion.
3. The relator did not establish entitlement to mandamus relief because he failed to prove an abuse of discretion, an unreasonable delay or refusal to act, and compliance with the requirement to provide relevant motion copies.

KEY QUOTATIONS

“Mandamus is an extraordinary remedy granted only when a relator can show (1) the trial court abused its discretion and (2) no adequate appellate remedy exists.” (at 2)

“No bright line defines the boundaries of a reasonable time period.” (at 3)

FACTUAL BACKGROUND

Relator stated that he filed a motion for summary judgment on December 10, 2025, received a response on February 26, 2026, filed a reply on March 4, 2026, and submitted the motion on March 6, 2026. He alleged that the motion and other motions remained pending while pretrial exchange and trial were approaching. He did not include copies of the motions with his mandamus petition and did not establish that the trial court had refused to rule.

PROCEDURAL HISTORY

Relator filed a motion for summary judgment in the County Court at Law No. 3 of Lubbock County on December 10, 2025. After a response and reply, the motion was submitted on March 6, 2026, and remained undecided when relator sought mandamus relief in the court of appeals. The court of appeals denied the petition because relator did not establish an unreasonable delay, refusal to act, or entitlement to relief, and did not provide copies of the motions as required by Texas Rule of Appellate Procedure 52.3(l).

DISPOSITION

writ_denied

CASES CITED

- In re N. Cypress Medical Center Operating Co., 559 S.W.3d 128, 130 (Tex. 2018) (orig. proceeding)
- In re H.E.B. Grocery Co., L.P., 492 S.W.3d 300, 302 (Tex. 2016) (orig. proceeding) (per curiam)
- Walker v. Packer, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding)
- Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 (Tex. 1985)
- State ex rel. Young v. Sixth Judicial District Court of Appeals, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding)
- Stoner v. Massey, 586 S.W.2d 843, 846 (Tex. 1979)
- Eli Lilly and Co. v. Marshall, 829 S.W.2d 157, 158 (Tex. 1992)
- Creel v. District Attorney for Medina County, 818 S.W.2d 45, 46 (Tex. 1991)
- Safety-Kleen Corp. v. Garcia, 945 S.W.2d 268, 269 (Tex. App.—San Antonio 1997, orig. proceeding)
- Ex parte Bates, 65 S.W.3d 133, 135 (Tex. App.—Amarillo 2001, orig. proceeding)
- In re Jones, No. 07-11-00499-CV, 2012 Tex. App. LEXIS 229, at *6 (Tex. App.—Amarillo 2012, orig. proceeding)

OPINION

In Re Hal Von Luebbert, Relator v. the State of Texas

PER CURIAM.

In The Court of Appeals Seventh District of Texas at Amarillo No. 07-26-00229-CV

IN RE HAL VON LUEBBERT, RELATOR

ORIGINAL PROCEEDING

June 8, 2026

MEMORANDUM OPINION

Before PARKER, C.J., and DOSS and YARBROUGH, JJ. By this original proceeding, Relator, Hal Von Leubbert, proceeding pro se, seeks a writ of mandamus to compel the Honorable Benjamin A. Webb, Presiding Judge of the County Court at Law No. 3 of Lubbock County, to rule on his motion for summary judgment and other pending motions. For the reasons expressed herein, we deny Relator’s request.

BACKGROUND

According to Relator’s petition, he filed a motion for summary judgment in the County Court on December 10, 2025. He states the real parties in interest filed their response on February 26, 2026, and he filed his reply on March 4, 2026. He says the motion was submitted on March 6, 2026, and has not been ruled upon. Relator claims “pre-trial exchange” is set for June 5, 2026, and trial is to commence June 17, 2026. Relator has not included a copy of the motion with his petition.¹

STANDARD OF REVIEW

Mandamus is an extraordinary remedy granted only when a relator can show (1) the trial court abused its discretion and (2) no adequate appellate remedy exists. *In re N. Cypress Med. Ctr. Operating Co.*, 559 S.W.3d 128, 130 (Tex. 2018) (orig. proceeding); *In re H.E.B. Grocery Co., L.P.*, 492 S.W.3d 300, 302 (Tex. 2016) (orig. proceeding) (per curiam). When seeking mandamus relief, a relator bears the burden of proving these two requirements. *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). To establish an abuse of discretion, a relator must demonstrate the trial court acted unreasonably, arbitrarily, or without reference to any guiding rules or principles. See *Downer v. Aquamarine Operators, Inc.*, 701 S.W.2d 238, 241–42 (Tex. 1985). To establish no adequate remedy by appeal, a relator must show there is no adequate remedy at law to address the alleged harm and the act requested is a ministerial act, not involving a discretionary or judicial decision. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007) (orig. proceeding). Furthermore, to establish a ministerial act, a relator must also show (1) a legal duty to 1 In his petition, Relator lists other motions he says are also pending. He asks this Court to compel a ruling on those motions as well. For the reasons stated herein, we decline to do so. He further asks this Court to stay the June 17, 2026 trial date. We do not do so. 2 perform, (2) a demand for performance, and (3) a refusal to act. *Stoner v. Massey*, 586 S.W.2d 843, 846 (Tex. 1979).

ANALYSIS

When a motion is properly pending in the trial court, the act of considering and ruling on the motion is a ministerial act. *Eli Lilly and Co. v. Marshall*, 829 S.W.2d 157, 158 (Tex. 1992). The trial court has a reasonable time within which to perform its ministerial duty to rule on a properly pending motion. *Creel v. Dist. Atty. For Medina County*, 818 S.W.2d 45, 46 (Tex. 1991); *Safety-Kleen Corp. v. Garcia*, 945 S.W.2d 268, 269 (Tex. App.—San Antonio 1997, orig. proceeding). Whether a reasonable period of time has passed depends on the circumstances of each case. *Ex parte Bates*, 65 S.W.3d 133, 135 (Tex. App.—Amarillo 2001, orig. proceeding). No bright line defines the boundaries of a reasonable time period. *Id.* Factors to consider regarding what constitutes a reasonable time period include the trial court’s actual knowledge of the motion, its overt refusal to act, the state of the court’s docket, and the existence of other judicial and administrative matters which must be addressed first. *Id.* Relator’s pending motion is a fairly recent filing. It was submitted just over two and a half months ago. He has not established the trial court’s refusal to act on it. We cannot say this delay in ruling constitutes an unreasonable delay or an abuse of discretion. See *In re Jones*, No. 07-11-00499-CV, 2012 Tex. App. LEXIS 229, at *6 (Tex. App.—Amarillo 2012, orig. proceeding) (finding less than three months without a ruling since the filing of a motion was not an unreasonable delay). Lastly, Relator has failed to include with his 3 petition copies of the motion(s) on which he seeks relief. See TEX. R. APP. P. 52.3(l). Accordingly, Relator has not established he is entitled to mandamus relief.

CONCLUSION

Relator's petition for writ of mandamus is denied. Alex Yarbrough Justice 4

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