

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)