

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

---

**NO. 09-20-00157-CR**

---

**IN RE ANTHONY RAY BANKS**

---

**Original Proceeding**  
**Criminal District Court of Jefferson County Texas**  
**Trial Cause Nos. 67286, 67288, and 64255**

---

**MEMORANDUM OPINION**

Anthony Ray Banks filed a *pro se* petition for a writ of mandamus to compel the trial court to rule on a motion for judgments *nunc pro tunc* that Banks filed on August 8, 2019. A relator must demonstrate that he is indisputably entitled to mandamus relief. *In re Brown*, 343 S.W.3d 803, 805 (Tex. Crim. App. 2011) (orig. proceeding). To obtain mandamus relief for the trial court's failure to rule on a motion for judgment *nunc pro tunc*, a relator must establish that (1) the motion was properly filed and has been pending for a reasonable time; (2) the relator requested a ruling on the motion; and (3) the trial court refused to rule. *In re Sarkissian*, 243 S.W.3d 860, 861 (Tex. App.—Waco 2008, orig. proceeding) (mem.

op.). Merely filing a motion with the trial court clerk does not constitute a request that the trial court rule on the motion. *Id.* Banks says he forwarded a letter of inquiry in October 2019 and in response he received a file-stamped copy of his motion and proposed order. He fails to show that the trial court was aware that the motion had been filed and that Banks was requesting a ruling.

Generally, the trial court's failure to award all the defendant's jail time credit when the court pronounced sentence may be corrected by a judgment *nunc pro tunc*. See *Ex parte Ybarra*, 149 S.W.3d 147, 148 (Tex. Crim. App. 2004). A trial court's denial of a meritorious claim for pre-sentence jail time credit may be corrected by mandamus. See *Ex parte Florence*, 319 S.W.3d 695, 696 (Tex. Crim. App. 2010). In this case, however, Banks filed no supporting documentation with his motion for judgments *nunc pro tunc* and he has not shown that the judgments failed to award him credit for time spent in jail prior to sentencing. The petition for writ of mandamus is denied.

PETITION DENIED.

PER CURIAM

Submitted on July 14, 2020  
Opinion Issued July 15, 2020  
Do not Publish

Before McKeithen, C.J., Kreger and Johnson, JJ.