

Cite as 2018 Ark. 275

SUPREME COURT OF ARKANSAS

No. CR-18-302

BRANDON WALLACE

PETITIONER

V.

HONORABLE LEON JOHNSON,
CIRCUIT JUDGE

RESPONDENT

Opinion Delivered October 4, 2018

PRO SE PETITION FOR WRIT OF
MANDAMUS
[PULASKI COUNTY CIRCUIT COURT,
FIRST DIVISION, NO. 60CR-14-4097]

PETITION DENIED.

COURTNEY HUDSON GOODSON, Associate Justice

Petitioner Brandon Wallace filed a petition for writ of mandamus in which he requests that this court order the Honorable Leon Johnson, who is the circuit judge assigned to Wallace’s criminal case in the Pulaski County Circuit Court, to enter an order on a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1 (2017) that Wallace filed on January 5, 2018. Because Judge Johnson has responded indicating that the matter is under consideration and proceeding, we hold that Wallace has failed to show a clear and certain right to the relief, and we deny the petition.

The Arkansas Court of Appeals affirmed Wallace’s convictions on charges of kidnapping and aggravated assault on a family or household member. *Wallace v. State*, 2017 Ark. App. 659, 537 S.W.3d 269. Wallace filed his mandamus petition in this court on April 3, 2018, alleging that Judge Johnson had unduly delayed in acting on the January 5 petition. In his response, Judge Johnson indicates that the matter has been under

consideration and that a hearing had been scheduled.¹

An applicant for an extraordinary writ such as mandamus carries the burden to demonstrate that the relief he or she seeks is merited. *Lonoke Cty. v. City of Lonoke*, 2013 Ark. 465, 430 S.W.3d 669. The purpose of a writ of mandamus is to enforce an established right or to enforce the performance of a duty. *Williams v. Porch*, 2018 Ark. 1, 534 S.W.3d 152. A writ of mandamus is issued by this court to compel an official or judge to take some action. *Id.* Issuance of the writ of mandamus is appropriate only when the duty to be compelled is ministerial and not discretionary. *Id.* When requesting a writ, a petitioner must show a clear and certain right to the relief sought and the absence of any other remedy. *Warren v. Felts*, 2017 Ark. 237.

A court does have a ministerial duty to timely act on pleadings filed, regardless of the merit of those pleadings. *Williams*, 2018 Ark. 1, 534 S.W.3d 152. Yet, a trial court controls its docket and the disposition of motions and other pleadings filed. *Hill v. Keaton*, 2017 Ark. 244, 525 S.W.3d 5. The trial court's control over a docket does not mean that a motion or case should be delayed beyond a time reasonably necessary to dispose of it. *Id.* As Judge Johnson has demonstrated that the matter is progressing, Wallace has not at this point shown that the delay in this case is one extending beyond the time reasonably necessary to dispose of the matter. He therefore failed to demonstrate that relief is merited on the petition.

¹In the response, Judge Johnson avers that a “report” hearing was scheduled and that any other hearing that may be necessary would be scheduled at that time.

Petition denied.