IN THE COURT OF CRIMINAL APPEALS OF TEXAS

IN RE WILLIAM EARL DURHAM, Relator

ON APPLICATION FOR A WRIT OF MANDAMUS FROM LIBERTY COUNTY

Per curiam.

O P I N I O N

Relator has filed a motion for leave to file a writ of mandamus pursuant to the original jurisdiction of this Court. In it, he contends that he filed an application for a writ of habeas corpus in Liberty County on July 2, 2015, that more than 35 days have elapsed, and that the application has not yet been forwarded to this Court.

On October 7, 2015, we held this application in abeyance and ordered Respondent, the District Clerk of Liberty County, to file a response. She responded and stated that Relator filed an application for a writ of habeas corpus on June 12, 2015, the State was served with his application on June 19, and the trial court entered an order designating issues (ODI) on August 26.

Under Article 11.07 of the Code of Criminal Procedure, the State shall answer an application within 15 days of the date it receives a copy. TEX. CODE CRIM. PROC. art. 11.07, § 3(b). If the trial court determines that there are controverted, previously unresolved facts material to the legality of an applicant's confinement, it shall enter an ODI within 20 days of the expiration of the time the State is allowed to answer. § 3(d). In Relator's case, the trial court's ODI was not timely entered. "Without a timely entry of an order designating issues, Article 11.07 imposes a duty upon the clerk of the trial court to immediately transmit to this Court the record from the application for a writ of habeas corpus, deeming the trial court's inaction a finding that no issues of fact require further resolution." *Gibson v. Dallas County District Clerk*, 275 S.W.3d 491, 492 (Tex. Crim. App. 2009).

We conditionally grant mandamus relief and direct Respondent to immediately forward Relator's habeas application to this Court. The writ of mandamus will issue only in the event that Respondent fails to comply.

Filed: November 11, 2015
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