



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. AP-76,929

DARRELL WAYNE STANLEY, Relator

v.

BELL COUNTY DISTRICT CLERK, Respondent

**ON APPLICATION FOR A WRIT OF MANDAMUS
CAUSE NO. 49316 IN THE 264TH DISTRICT COURT
FROM BELL COUNTY**

**PER CURIAM. KELLER, P.J., FILED A DISSENTING OPINION IN WHICH KEASLER, HERVEY
AND ALCALÁ, JJ., JOINED.**

OPINION

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 the 264th District Court of Bell County, but the District Clerk refused to accept the writ application for filing. The mandamus application was abated for a response from the District Clerk, and the Clerk's response has been received.

Relator stated the Clerk was refusing to file his writ application because he added pages to it. The Clerk's response acknowledged that Relator's statement was correct. The Clerk told Relator, "Please follow the instructions on the Instruction Sheet, specifically #5 & #6. You must briefly summarize the facts on each ground, additional pages can not be added within your application. You may attach a memorandum of law to further explain your grounds."

The writ application form gives the following instructions regarding the use of additional pages:

[from instruction sheet]

5. Answer every item that applies to you on the form. You may use additional pages only if you need them for item 17, the facts supporting your ground for relief. Do not attach any additional pages for any other item 17.
6. You must include all grounds for relief on the application form as provided by the instructions under item 17. You must also briefly summarize the facts of your claim on the application form as provided by the instructions under item 17.

[from application form]

- (17) Beginning on page 6, state concisely every legal ground for your claim that you are being unlawfully restrained, and then briefly summarize the facts supporting each ground. You must present each ground on the form application and a brief summary of the facts. If your grounds and brief summary of the facts have not been presented on the form application, the Court will not consider your grounds.

If you have more than four grounds, use page 10 of the form, which you may copy as many times as needed to give you a separate page for each ground, with each ground numbered in sequence.

You may attach a memorandum of law to the form application if you want to present legal authorities, but the Court will not consider grounds for relief in a memorandum of law that were not stated on the form application. If you are challenging the validity of your conviction, please include a summary of the facts pertaining to your offense and trial in your memorandum.

Relator included a copy of a writ application with his mandamus application. Assuming it is a copy of the application he attempted to file, it appears Relator is adding his own pages as extensions of the factual bases of the claims. There may be some additional pages that are technically non-compliant, but it appears these pages are not meant to replace the form but give additional answers to questions on the form, and it appears Relator is substantially complying with the instructions on the form.

Although the District Clerk has the authority to return an application when an applicant is not using the correct form, TEX. RULE APPELLATE PROC. 73.2., Relator appears to have used the correct form and appears to have substantially complied with the instructions. Mandamus relief is therefore conditionally granted, *see Braxton v. Dunn*, 803 S.W.2d 318, 320 (Tex.Crim.App. 1991), and the District Clerk of Bell County is instructed to accept Relator's application for filing with the additional pages. Also, Relator is instructed that these additional pages should only be added to expand on the factual bases of the grounds raised on the form application or to raise additional grounds than that provided for in the form application. Relator may attach a memorandum of law to the form application to present legal authorities.

Filed: December 12, 2012
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