



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

	§	No. 08-14-00223-CR
IN RE: DOUGLAS WAYNE JENKINS,	§	
	§	AN ORIGINAL PROCEEDING
Relator.	§	IN MANDAMUS
	§	
	§	
	§	

MEMORANDUM OPINION

Douglas Wayne Jenkins, Relator, has filed a petition for writ of mandamus against the Honorable Pedro Gomez, Judge of the 112th District Court of Pecos County, Texas, asking that we order Respondent to rule on a petition for writ of habeas corpus. We deny mandamus relief.

A party seeking a writ of mandamus in a criminal case must make two showings: (1) that there is no adequate remedy at law to redress the alleged harm; and (2) that the act the relator seeks to compel is ministerial rather than discretionary in nature. *See e.g. Board of Pardons and Paroles ex rel. Keene v. Court of Appeals for the Eighth District*, 910 S.W.2d 481, 483 (Tex.Crim.App. 1995) (orig. proceeding); *In re State of Texas*, 304 S.W.3d 581, 583 (Tex.App.-- El Paso 2010, orig. proceeding). Although mandamus will not issue to compel a particular result in what is manifestly a discretionary decision, mandamus may be appropriate to impel consideration of a motion or the issuance of a ruling, the doing of which is not discretionary.

White v. Reiter, 640 S.W.2d 586, 593-94 (Tex.Crim.App. 1982); *State ex rel. Rodriguez*, 196 S.W.3d 454, 458 (Tex.App.--El Paso 2006, orig. proceeding).

Relator asks us to compel Respondent to rule on a pending Article 11.07 writ application. The Court of Criminal Appeals has exclusive jurisdiction in final post-conviction habeas corpus proceedings. TEX.CODE CRIM. PROC. ANN. art. 11.07 (West Supp. 2013); *Padieu v. Court of Appeals of Texas, Fifth District*, 392 S.W.3d 115, 117 (Tex.Crim.App. 2013); *In re McAfee*, 53 S.W.3d 715, 717 (Tex.App.--Houston [1st Dist.] 2001, orig. proceeding). Any complaints about action or inaction on a pending Article 11.07 writ application must be brought by mandamus to the Court of Criminal Appeals. *In re McAfee*, 53 S.W.3d at 717. Accordingly, we deny the relief requested.

GUADALUPE RIVERA, Justice

August 6, 2014

Before McClure, C.J., Rivera, and Rodriguez, JJ.

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