

Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed June 17, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00504-CR

IN RE CHARLES FRANKLIN IRELAND, Relator

ORIGINAL PROCEEDING
WRIT OF MANDAMUS

MEMORANDUM OPINION

Relator, Charles Franklin Ireland, an inmate appearing *pro se*, filed a petition for writ of mandamus in this court.¹ *See* Tex. Gov't Code Ann §22.221 (Vernon 2004); *see also* Tex. R. App. P. 52.1. In his petition, relator asks that we compel Baldwin Chin, a Harris County Assistant District Attorney, to deliver evidence for post-conviction DNA testing pursuant to relator's September 14, 2009 motion filed under Chapter 64 of the Code of Criminal Procedure. *See* Tex. Code Crim. Proc. Ann. art. 64.02 (Vernon Supp. 2009)

¹ This court affirmed appellant's conviction for aggravated sexual assault of a child. *See Ireland v. State*, No. B14-89-00098-CR, 1990 WL 8478 (Tex. App.—Houston [14th Dist.] Feb. 1, 1990, pet. ref'd) (not designated for publication). This court also affirmed the denial of relator's previous motion for DNA testing. *See Ireland v. State*, No. 14-03-00769-CR, 2004 WL 503225 (Tex. App.—Houston [14th Dist.] Mar. 16, 2004, no pet.) (not designated for publication).

(requiring the State to either deliver the evidence to the court or explain in writing why the evidence cannot be delivered).

This court's mandamus jurisdiction is governed by section 22.221 of the Texas Government Code. Tex. Gov't Code Ann. § 22.221 (Vernon 2004). Section 22.221 expressly limits the mandamus jurisdiction of the courts of appeals to: (1) writs against a district court judge or county court judge in the court of appeals' district, and (2) all writs necessary to enforce the court of appeals' jurisdiction. *Id.* A court of appeals has no general writ power over a person — other than a judge of a district or county court — unless issuance of the writ is necessary to enforce the jurisdiction of the court in a case properly before it. *Id.* Relator does not have an appeal or any other proceeding pending in this court, and he has alleged nothing in his petition to suggest that issuance of a writ is necessary to enforce our jurisdiction. Thus, we do not have jurisdiction to mandamus an assistant district attorney in this circumstance. *See, e.g. In re Thomison*, No. 10-09-00425-CR, 2010 WL 137945 (Tex. App.—Waco Jan. 13, 2010, orig. proceeding) (mem. op.) (dismissing petition against district attorney); *see also Silva v. Klevenhagen*, 833 S.W.2d 746, 747 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) (dismissing petition against sheriff).

Accordingly, the petition for writ of mandamus is ordered dismissed.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Yates and Boyce.

Do Not Publish—Tex. R. App. P. 47.2(b).