

**Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed  
December 2, 2010.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-10-01109-CR  
NO. 14-10-01110-CR**

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**IN RE QUINTON JAMOND HAYNES, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS  
174th District Court  
Harris County, Texas  
Trial Court Cause Nos. 970848 & 970849**

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**MEMORANDUM OPINION**

On November 10, 2010, relator Quinton Jamond Haynes filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. In two issues, relator complains that both the Honorable George Godwin, presiding judge of the 174th District Court of Harris County, and the clerk of the court have not performed their ministerial duties related to the filing of his motion to enter a nunc pro tunc order.

First, relator complains that the trial court clerk has not filed his motion or presented

it to the trial court. We lack jurisdiction to compel a trial court clerk to act. This court's mandamus jurisdiction is governed by section 22.221 of the Texas Government Code. 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. Tex. Gov't Code § 22.221. We have no jurisdiction to issue a writ of mandamus against a clerk unless necessary to enforce our jurisdiction. *See In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding). The relief relator seeks does not impact our jurisdiction. Accordingly, we dismiss that portion of relator's petition seeking issuance of a writ against the district clerk.

Secondly, relator complains that the Honorable George Godwin did not comply with his duty to respond to his motion within 20 days as required by articles 4.04 and 11.07 of the Texas Code of Criminal Procedure. In 2005, relator entered guilty pleas to two aggravated robbery offenses, and the trial court sentenced him to confinement for forty years in each case, with the sentences to be served concurrently.<sup>1</sup> Relator states that earlier this year, he filed a motion seeking entry of a nunc pro tunc order correcting the judgments in his 2005 convictions to change the offenses from aggravated robbery to robbery because the trial court did not include affirmative findings of the use of a deadly weapon in the judgments

A judgment nunc pro tunc is appropriate to correct clerical errors when the court's records do not mirror the judgment actually rendered. *Collins v. State*, 240 S.W.3d 925, 928 (Tex. Crim. App. 2007). A nunc pro tunc order is not appropriate to correct judicial errors or omissions, however. *Ex parte Poe*, 751 S.W.2d 873, 876 (Tex. Crim. App. 1988) (en banc). Before a judgment nunc pro tunc may be entered, there must be proof that the

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<sup>1</sup> This court affirmed relator's convictions on direct appeal. *See Haynes v. State*, 14-05-00235-CR & 14-05-00236-CR, 2005 WL2431105 (Tex. App.—Houston [14th Dist.] Sept. 1, 2005, pet. ref'd) (not designated for publication).

proposed judgment was actually rendered or pronounced at an earlier time. *Wilson v. State*, 677 S.W.2d 518, 521 (Tex. Crim. App. 1984).

The relief that relator seeks actually constitutes a post-conviction challenge to his convictions. In his motion, he asserted that he is guilty only of lesser offenses, challenged the factual basis for the elements of the offenses, and challenged the legality of his sentences. Only the Texas Court of Criminal Appeals has jurisdiction over matters related to post-conviction relief from a final felony conviction. *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. 1991); *see also* Tex. Code Crim. Proc. Ann. art. 11.07; *Board of Pardons & Paroles ex rel. Keene v. Court of Appeals for Eighth Dist.*, 910 S.W.2d 481, 483 (Tex. Crim. App. 1995) (holding that article 11.07 provides the exclusive means to challenge a final felony conviction). This court has no jurisdiction over that portion of relator's petition seeking issuance of a writ against the district court judge.

Accordingly, we dismiss relator's petition for writ of mandamus.

PER CURIAM

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

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