

Court of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-10-00712-CR

EX PARTE James MCCRACKEN

Original Proceeding¹

PER CURIAM

Sitting: Karen Angelini, Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: October 20, 2010

PETITION FOR WRIT OF HABEAS CORPUS DENIED

On October 5, 2010, relator James McCracken, III filed an original petition for writ of habeas corpus in this court. However, as an intermediate court of appeals this court is not authorized to grant the relief requested. Pursuant to section 22.221(d) of the Texas Government Code, in civil matters, a court of appeals “may issue a writ of habeas corpus when it appears that the restraint of liberty is by virtue of an order, process, or commitment issued by a court or judge because of the violation of an order, judgment, or decree previously made, rendered, or entered by the court or judge in a civil case.” TEX. GOV’T CODE ANN. § 22.221(d) (Vernon 2004). However, in criminal matters, a court of appeals has no original habeas corpus jurisdiction.

¹ This proceeding arises out of Cause No. 2009-CR-10559-B, styled *State of Texas v. James McCracken, III*, pending in the 144th Judicial District Court, Bexar County, Texas, the Honorable Catherine Torres-Stahl presiding.

Watson v. State, 96 S.W.3d 497, 500 (Tex. App.—Amarillo 2002, pet. ref'd); *Dodson v. State*, 988 S.W.2d 833, 835 (Tex. App.—San Antonio 1999, no pet.). In criminal matters, the courts authorized to issue writs of habeas corpus are the Texas Court of Criminal Appeals, the district courts, and the county courts. See TEX. CODE CRIM. PROC. ANN. art. 11.05 (Vernon 2005). Therefore, we dismiss this petition for writ of habeas for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH