

NO. 07-03-0152-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL C
MARCH 28, 2003

IN RE NATHAN FELDER,

Relator

ORIGINAL PROCEEDING FOR WRIT OF PROHIBITION

Before JOHNSON, C.J., and QUINN and REAVIS, JJ.

Pending before the court is a motion for a writ of prohibition filed by Nathan Felder. The latter seeks an order “prohibiting Judge Bill Sheehan of the 69th District [C]ourt of Dallam [sic] County from continuing prosecution of cause number 3539 until it is determined whether said court has proper jurisdiction . . . to try Relator.” The relator is being tried for capital murder. Furthermore, the trial court purportedly lacks jurisdiction over the proceeding because the indictment allegedly fails to charge Felder “with a violation of an offense under Article 5 Section 12b, Tx. Const. as defined by Article 3 Section 29, Tx. Const.” We deny the motion.

Texas Rule of Appellate Procedure 52.3(j)(1) requires the one seeking a writ of prohibition to append to the request “a certified copy or sworn copy of . . . any . . . document showing the matter complained of.” There are at least two documents which fall within the category described by Felder. The first is the indictment which purportedly failed

to charge an offense. The second is the pretrial petition for writ of habeas corpus which he allegedly filed and awaits determination. According to the motion before us, it is that petition for habeas relief which must first be considered and determined before the trial court can continue with the criminal prosecution. Yet, neither document accompanied Felder's request for a writ of prohibition. Thus, he not only has failed to provide us with documentation necessary to assess his contentions but also failed to comply with Rule 52.3(j)(1).

Accordingly, the request for a writ of prohibition is denied.

Per Curiam