

NO. 07-05-0173-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
MAY 17, 2005

IN RE: R. WAYNE JOHNSON,

Relator

Original Proceeding – Memorandum Opinion

Before QUINN, REAVIS and CAMPBELL, JJ.

Pending before this court is the *pro se* petition of R. Wayne Johnson (Johnson) for a writ of mandamus. He asks the court to order Bruce Zeller, the warden supervising the prison wherein Johnson is housed, to comply “with the rules [sic] forms [sic] the basis of this suit” So too does he seek “injunctive relief” and a restraining order against Zeller. We deny the petition for the following reasons.

Our power to issue a writ of mandamus against anyone other than a judge is quite limited. That is, we may do so only when necessary to enforce our jurisdiction over a pending appeal. TEX. GOV'T CODE ANN. §22.221(a) (Vernon 1988). And, before it can be said that we are acting to enforce our jurisdiction over a pending appeal, the dispute made the basis of the relator's application for writ must somehow implicate a pending appeal. *Bush v. Vela*, 535 S.W.2d 803, 804 (Tex. Civ. App.—Corpus Christi 1976, orig. proceeding).

Since the subject matter of Johnson's request does not involve a pending appeal, we have no jurisdiction to issue mandamus against Zeller, a prison warden.

Accordingly, relator's petition for writ of mandamus is denied. TEX. R. APP. P. 52.8(a). Furthermore, because we have denied Johnson's petition for writ of mandamus, we deny his request for injunctive relief and for a restraining order as moot.

Brian Quinn
Justice