



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

---

No. 07-23-00144-CR

---

IN RE TOM CASTILLEJA, RELATOR

---

ORIGINAL PROCEEDING

---

April 27, 2023

**MEMORANDUM OPINION**

Before QUINN, C.J., and DOSS and YARBROUGH, JJ.

Pending before the court is the pro se petition for writ of mandamus filed by Tom Castilleja, relator. In it, he seeks a writ directing the presiding judge of the 137th District Court and/or the Lubbock County District Clerk to cause to be delivered to the Texas Department of Criminal Justice (TDCJ) a copy of the judgment by which relator was convicted of murder and sentenced to prison. He also seeks to have a copy of said judgment forwarded to him. Finding that relator has not shown himself entitled to the requested relief and that, with regard to a portion of his requested relief, this court lacks jurisdiction to issue such a writ, we deny relator's petition.

In his petition, relator maintains that he has sought assistance directly from both the district court judge and the district clerk, even explaining that he contacted both

offices via certified mail with his request. However, relator has failed to attach any of the documents that would demonstrate such efforts. Such an omission in the record is fatal to relator's attempt at securing relief. In *In re Chavez*, we said that "a trial court cannot be found to have abused its discretion until the complainant establishes that the court 1) had a legal duty to perform a non-discretionary act, 2) was asked to perform the act, and 3) failed or refused to do so." *In re Chavez*, 62 S.W.3d 225, 228 (Tex. App.—Amarillo 2001, orig. proceeding). Implicit within those elements is the need for the trial court to know about the need to act. *Id.* Nothing supplied by relator here establishes that; indeed, we are left to guess whether the trial court itself or someone else received the certified mailing mentioned by relator.

Further, applicable rules of procedure also require the documents be included with relator's petition, such as the requests made by relator. See TEX. R. APP. P. 52.3(k)(1)(A) (requiring inclusion of "any other document showing the matter complained of" in appendix to petition for writ of mandamus). They were not.

With regard to relator's mandamus compelling the district clerk to forward a copy of the judgment to the TDCJ, we lack jurisdiction to do so. By statute, this court's mandamus jurisdiction is limited to issuance of writs against certain judges within our appellate district. See TEX. GOV'T CODE ANN. § 22.221(b). We have no jurisdiction to issue a writ of mandamus against a clerk of a court unless the writ is necessary to enforce our jurisdiction. See *id.* § 22.221(a). Relator makes no representation that he seeks a copy of the judgment in furtherance of a pending or anticipated appeal. To the contrary, he candidly concedes that all his appeals have been exhausted and he seeks the copy of the judgment solely for purposes of determining parole eligibility.

We deny relator's petition for writ of mandamus. The clerk of this court is directed to serve the Honorable John "Trey" J. McClendon III, presiding judge of the 137th District Court, with a copy of this order and the petition for writ of mandamus in a manner affording Judge McClendon actual notice of same.

Per Curiam

Do not publish.