



**IN THE  
TENTH COURT OF APPEALS**

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**No. 10-15-00129-CR**

**IN RE RICHARD MAXEY**

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**Original Proceeding**

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**MEMORANDUM OPINION**

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Relator Richard Maxey has filed a petition for writ of mandamus<sup>1</sup> appearing to seek the following relief against Marc Hamlin, Brazos County District Clerk, pertaining to his allegedly pending proceeding for post-conviction habeas relief in the convicting court: an order to the District Clerk to receive, file, and transmit to the convicting court Maxey's "motion to obtain documents and trial records in forma pauperis and motion for nunc pro tunc," and to provide a certificate reciting the date that the motion was filed.

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<sup>1</sup> The petition has several procedural deficiencies. It does not include the certification required by Rule of Appellate Procedure 52.3(j). *See* TEX. R. APP. P. 52.3(j). It lacks an appendix, and no record has been filed. *See id.* 52.3(k), 52.7. Because of our disposition and to expedite it, we will implement Rule 2 and suspend these rules. *Id.* 2.

A court of appeals has no jurisdiction to issue a writ of mandamus against a district clerk except to protect its jurisdiction. See TEX. GOV'T CODE ANN. § 22.221(b) (West 2004); *In re Bernard*, 993 S.W.2d 453, 454 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding). An intermediate court of appeals has no jurisdiction over a post-conviction application for writ of habeas corpus in a felony case. See *Ex parte Martinez*, 175 S.W.3d 510, 512-13 (Tex. App.—Texarkana 2005, orig. proceeding) (citing TEX. CODE CRIM. PROC. ANN. art. 11.07(3)(a), (b)). Having no jurisdiction to protect, we lack jurisdiction over Maxey's petition for writ of mandamus against the District Clerk. The petition is dismissed for lack of jurisdiction.<sup>2</sup>

REX D. DAVIS  
Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins  
Petition dismissed and denied  
Opinion delivered and filed April 23, 2015  
Do not publish  
[OT06]



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<sup>2</sup> To the extent that the petition seeks mandamus relief against the Honorable J.D. Langley, that request is denied because Judge Langley is no longer the presiding judge of the 85th Judicial District Court of Brazos County.