

**NO. 12-10-00233-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

*IN RE: MARLIN D. ALEXANDER,*

§

*RELATOR*

§

*ORIGINAL PROCEEDING*

§

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***MEMORANDUM OPINION  
PER CURIAM***

Relator Marlin D. Alexander complains of the trial court's denial of his motion for judgment nunc pro tunc by which he sought to correct an alleged error in "flat-time calendar-time" credit.

The court of criminal appeals has exclusive jurisdiction to grant postconviction relief from an otherwise final felony conviction. *See Bd. of Pardons & Paroles ex rel. Keene v. Eighth Court of Appeals*, 901 S.W.2d 481, 483 (Tex. Crim. App. 1995); *see also* TEX. CODE CRIM. PROC. ANN. art. 11.07 (Vernon Supp. 2009). This includes matters relating to flat time credit. *See, e.g., Ex parte Lee*, 223 S.W.3d 360, 360-61 (Tex. Crim. App. 2006).

In this case, Relator contends that he has been improperly denied credit for the time he was in the custody of the Bradshaw State Jail Facility, pending a detainer, from March 28, 2005 until he was released out on parole on July 12, 2006 (one year, eleven months, and six days). He filed a motion for judgment nunc pro tunc in the trial court, which was denied. He now seeks a writ of mandamus directing the trial court to grant him the proper credit.<sup>1</sup> However, we have no jurisdiction in this matter. The proper avenue for resolving the issue is by application for writ of habeas corpus as authorized by article 11.07. *See Keene*, 901 S.W.2d at 483. Accordingly,

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<sup>1</sup> A motion for judgment nunc pro tunc is filed when a defendant alleges an error in presentence jail time credit. *See Ex parte Ybarra*, 149 S.W.3d 147, 148 (Tex. Crim. App. 2004). Relator's complaint does not relate to presentence jail time.

Relator's petition for writ of mandamus is *dismissed*. All pending motions are overruled as moot.

Opinion delivered July 30, 2010.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*

(DO NOT PUBLISH)