

**NO. 12-17-00196-CR**  
**IN THE COURT OF APPEALS**  
**TWELFTH COURT OF APPEALS DISTRICT**  
**TYLER, TEXAS**

*IN RE:* §  
*MICHAEL A. KENNEDY,* § *ORIGINAL PROCEEDING*  
*RELATOR* §

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***MEMORANDUM OPINION***  
***PER CURIAM***

Michael A. Kennedy files this original proceeding in which he seeks recusal of this Court from a civil rights complaint that he has allegedly filed in Anderson County, Texas. He also appears to raise various complaints regarding the conduct of the trial court during his trial, as well as a vague complaint against the court of criminal appeals.

We first note that Relator’s petition consists of mere conclusions, without discussion of applicable legal principles and controlling authority. Thus, he has failed to provide the “clear and concise argument” and “appropriate citations to authorities” required by Texas Rule of Appellate Procedure 52.3(h). *See* TEX. R. APP. P. 52.3(h).

Moreover, Relator’s criminal case is no longer pending either in the trial court or this Court. *See Kennedy v. State*, No. 12–11–00041–CR, 2012 WL 3201924, at \*8 (Tex. App.–Tyler Aug. 8, 2012, pet. ref’d) (mem. op., not designated for publication) (affirming judgment on punishment); *see also Kennedy v. State*, No. 12–08–00246–CR, 2009 WL 4829989, at \*3–4 (Tex. App.–Tyler Dec. 16, 2009, pet. stricken) (mem. op., not designated for publication) (affirming judgment of conviction). The applicable rules governing recusal apply to judges in which the case is pending. *See* TEX. R. APP. P. 16.3; *see also* TEX. R. CIV. P. 18a. Nor does this Court have jurisdiction to consider Relator’s complaints regarding his final felony conviction. *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991); *see also In*

*re Briscoe*, 230 S.W.3d 196, 196-97 (Tex. App.—Houston [14th Dist.] 2006, orig. proceeding); *In re McAfee*, 53 S.W.3d 715, 718 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding).

Additionally, this Court does not have mandamus jurisdiction over the Texas Court of Criminal Appeals. See TEX. GOV'T CODE ANN. § 22.221 (West 2004); see also *In re Patterson*, No. 05-13-00435-CV, 2013 WL 1701914, at \*1 (Tex. App.—Dallas Apr. 19, 2013, orig. proceeding) (dismissing original proceeding complaining of court of criminal appeals for want of jurisdiction).

Accordingly, for the above reasons, we *dismiss* Relator's petition for writ of mandamus for *want of jurisdiction*.<sup>1</sup>

Opinion delivered June 21, 2017

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(DO NOT PUBLISH)

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<sup>1</sup> On February 15, 2017, the Texas Court of Criminal Appeals issued an abuse of writ order against Relator, in which it found that he (1) filed seven applications regarding his conviction, (2) “continues to raise issues that have been presented and rejected in previous applications or that should have been presented in previous applications[,]” and (3) “[b]ecause of his repetitive claims, ... Applicant’s claims are barred from review under Article 11.07, § 4, and are waived and abandoned by his abuse of the writ.” *Ex Parte Kennedy*, No. WR-75,385-24 (Tex. Crim. App. Feb. 15, 2017). Relator has continued, unsuccessfully, to seek relief in the court of criminal appeals. See *Ex Parte Kennedy*, No. WR-75,385-26 (Tex. Crim. App. April 12, 2017) (denying motion for leave to file application for writ of habeas corpus).



**COURT OF APPEALS**  
**TWELFTH COURT OF APPEALS DISTRICT OF TEXAS**  
**JUDGMENT**

**JUNE 21, 2017**

**NO. 12-17-00196-CR**

**MICHAEL A. KENNEDY,**  
Relator  
V.

**HON. MARK A. CALHOON,**  
Respondent

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**ORIGINAL PROCEEDING**

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ON THIS DAY came to be heard the petition for writ of mandamus filed by Michael A. Kennedy; who is the relator in Cause No. 29326. Said petition for writ of mandamus having been filed herein on June 16, 2017, and the same having been duly considered, because it is the opinion of this Court that it lacks jurisdiction, it is therefore **CONSIDERED, ADJUDGED** and **ORDERED** that the said petition for writ of mandamus be, and the same is, hereby **dismissed for want of jurisdiction.**

By *per curiam* opinion.  
*Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.*