

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 16, 2013

Lyle W. Cayce
Clerk

No. 13-10620
Summary Calendar

OLIN RAY NOWLIN,

Petitioner-Appellant

v.

WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:13-CV-28

Before DAVIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Olin Ray Nowlin, Texas prisoner # 824386, appeals the district court's dismissal of his petition for writ of mandamus, in which Nowlin asked the district court to compel the Texas Court of Criminal Appeals to order the state trial court to file his state postconviction application and brief that it had refused to file in June 2012. Nowlin's assertions that he was not seeking

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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mandamus relief, that the district court should have construed his petition as a 28 U.S.C. § 2254 petition, and that the district court should have filed and considered his mandamus petition as part of case number 4:04-CV-949-Y based on newly discovered evidence are frivolous.

The appeal is without arguable merit and is DISMISSED as frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2. Nowlin is WARNED that any future frivolous filings in this court or any court subject to this court's jurisdiction will subject him to sanctions.