



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-88,366-01**

**IN RE THE STATE OF TEXAS, EX REL. JOSH SCHAFFER, Relator**

**ON PETITION FOR A WRIT OF PROHIBITION  
ANCILLARY TO CAUSE NOS. 24975, 24976, 24977, 24978, 24979, 24980 & 24981  
IN THE 252<sup>ND</sup> DISTRICT COURT  
FROM JEFFERSON COUNTY**

***Per curiam.* YEARY, J., filed a dissenting opinion.**

## **OPINION**

Relator filed a motion for leave to file a petition for a writ of prohibition, invoking our constitutional authority to issue writs of mandamus and prohibition in criminal law matters. TEX. CONST. art. V, § 5; *Smith v. Flack*, 728 S.W.2d 784, 788 (Tex. Crim. App. 1987). The petition requested that this Court issue the writ of prohibition against the Jefferson County District Attorney's Office, preventing it from taking any further action with respect to the Relator's fees in cases from which the District Attorney recused himself and his office.

Respondent, the Jefferson County District Attorney, provided a response arguing, among other things, that it was not recused in every cause number, that recusal in these cases did not reach

post-trial proceedings, and that this Court does not have prohibition jurisdiction because Relator's claim is not ripe.

After consideration of the prohibition record and the Respondent's arguments, we grant Relator leave to file and conditionally grant prohibition relief. Respondent, the Criminal District Attorney of Jefferson County, voluntarily recused himself and is disqualified in the causes ancillary to cause numbers 24975, 24976, 24977, 24978, 24979, 24980, and 24981, in the 252<sup>nd</sup> District Court, now subject to expunction orders. He is directed to take no further action relating to matters arising from the aforementioned cases. The writ of prohibition will issue only in the event the Respondent fails to comply with this opinion.

Filed: December 12, 2018

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