



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-24,927-68

IN RE TODD WARREN ALTSCHUL, Relator

ON APPLICATION FOR A WRIT OF MANDAMUS
CAUSE NO. 23,557-R IN THE 23RD DISTRICT COURT
FROM BRAZORIA COUNTY

Per curiam.

ORDER

Relator filed a motion for leave to file a writ of mandamus pursuant to the original jurisdiction of this Court. He alleged that he had filed an Article 11.07 writ application with the Brazoria County District Clerk but that the clerk had not timely forwarded the application to this Court.

The application was abated, and the district clerk responded that no habeas writ filing had been received. Relator replied that he did file the writ application, and he attempted to prove filing with a copy of a writ application containing a file stamp from Brazoria County that he claimed was stamped by the clerk. The stamp had no time or signature and was different from other Brazoria County file stamps in the record. Relator also included a signed United States Postal Service Form 3811 (return receipt green card) indicating that a delivery to the district clerk was made on or about

the time Relator alleged that he had filed his writ application. The mandamus application was abated again for findings from the trial court regarding whether the file stamp and the return receipt were authentic, and the application has been returned to this Court.

The Brazoria County District Clerk provided an affidavit to the trial court stating that both the file stamp and the signature on the return receipt are not authentic and explaining why these items were known to be fraudulent. Relator has provided no credible evidence showing the District Clerk is incorrect. Based on the affidavit, the trial court finds that the items are not authentic, and it also finds that Relator's mandamus application constitutes a frivolous and malicious action under Section 498.0045 of the Government Code, which requires prison officials to forfeit an appropriate amount of Relator's good time. The trial court's findings are supported by the record and are adopted by this Court.

Relator has abused the mandamus process by submitting false evidence. Based on Relator's submission of false evidence to support his mandamus claim that the District Clerk violated a ministerial duty, this Court holds that Relator has filed a frivolous or malicious lawsuit under Section 498.0045 of the Government Code. His mandamus application is therefore dismissed.

This Court also instructs the Honorable Abel Acosta, Clerk of the Court of Criminal Appeals, not to accept or file the instant application for a writ of mandamus or any future applications for mandamus relief pertaining to this conviction unless Relator supports the claims raised in the future mandamus application with certified copies of court records demonstrating that there is a ministerial duty to compel. *See Braxton v. Dunn*, 803 S.W.2d 318 (Tex. Crim. App. 1991).

Copies of this order shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Filed: April 10, 2013
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