

**DISMISS; and Opinion Filed May 9, 2014.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

---

**No. 05-14-00543-CV**

---

**IN RE DONALD GENE BLANTON, Relator**

---

**Original Proceeding from the 86th Judicial District Court  
Kaufman County, Texas  
Trial Court Cause No. 23592-86**

---

**MEMORANDUM OPINION**

Before Justices Bridges, Lang-Miers, and Myers  
Opinion by Justice Lang-Miers

Relator filed this petition for writ of mandamus alleging that the trial court has failed to hold a hearing on his claim of actual innocence. This Court has not been given general supervisory control over district and county courts. *Texas Emp. Ins. Ass'n v. Kirby*, 150 S.W.2d 123, 126 (Tex. Civ. App.—Dallas 1941, no writ); *see also Guillory v. Davis*, 527 S.W.2d 465, 466 (Tex. Civ. App.—Beaumont 1975, no writ). The underlying nature of relator's complaint is that he has is being illegally confined following conviction of a felony. That sort of claim must be raised by petition for writ of habeas corpus. While the courts of appeals have concurrent mandamus jurisdiction with the Court of Criminal Appeals in some post-conviction proceedings, *Padilla v. McDaniel*, 122 S.W.3d 805, 808 (Tex. Crim. App. 2003) (forensic DNA testing), only the Court of Criminal Appeals has jurisdiction in cases collaterally attacking a final judgment of conviction of a felony. *See* TEX. CODE CRIM. PROC. ANN. art. 11.07 (West Supp. 2010); *In re Turk*, No. 14-09-00129-CR, 2009 WL 396197, at \*1 (Tex. App.—Houston [14th Dist.] Feb. 19,

2009, no pet.) (mem. op.); *In re Bailey*, No. 14-06-00841-CV, 2006 WL 2827249, at \*1 (Tex. App.—Houston [14th Dist.] 2006, orig. proceeding) (mem. op.); *In re McAfee*, 53 S.W.3d 715, 717 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). “Article 11.07 contains no role for the courts of appeals; the only courts referred to are the convicting court and the Court of Criminal Appeals.” *In re McAfee*, 53 S.W.3d at 718. Accordingly, we **DISMISS** the petition for writ of mandamus.

/Elizabeth Lang-Miers/  
ELIZABETH LANG-MIERS  
JUSTICE

140543F.P05