

**Dismiss and Opinion Filed May 21, 2014.**



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

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**No. 05-14-00601-CV**

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**IN RE RUBEN GARCES MORENO, Relator**

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**Original Proceeding from the Criminal District Court No. 4  
Dallas County, Texas  
Trial Court Cause No. F-0251303**

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**MEMORANDUM OPINION**

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

Relator filed this petition for writ of mandamus requesting that this Court order the trial court to rule on his petition for writ of habeas corpus, which he says he filed in the trial court on January 13, 2014. We do not have jurisdiction over relator's petition. 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 715, 718 (Tex. App.—Houston [1st Dist.] 2001, no pet.) 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 final post-conviction habeas corpus proceedings. 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 at 717. Any complaints about action or inaction on a matter related to a post-conviction petition for writ of habeas corpus, must be brought by mandamus to the Court of Criminal Appeals and not to this Court. *In re McAfee*, 53 S.W.3d at 717. Because relator's petition for mandamus arises from the trial court's failure to rule on his post-conviction application for writ of habeas corpus, we do not have jurisdiction over the complaint. Accordingly, we **DISMISS** relator's petition.

/Lana Myers/  
LANA MYERS  
JUSTICE

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