

Dismiss and Opinion Filed April 29, 2016



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

No. 05-16-00478-CV

No. 05-16-00479-CV

No. 05-16-00480-CV

IN RE JEFFORY BLACKARD, Relator

**On Appeal from the 416th Judicial District Court
Collin County, Texas
Trial Court Cause Nos. 416-81913-2015, 416-82148-2015, 416-82149-2015**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Lang, and Justice Brown
Opinion by Chief Justice Wright

In this petition for writ of mandamus and prohibition, relator requests that the Court order the trial court to vacate its January 6, 2016 Order on Payment of Attorney's Fees to Attorneys Pro Tem to the extent it approves the hourly rate set for each of the attorneys representing the State of Texas in this case as attorneys pro tem. He further requests that the Court prohibit the trial court from ordering the payment of any additional invoices submitted by the attorney pro tem that vary from the fixed fees or hourly rates set forth in the fee schedule contained in the Collin County District Court Plan. Relator is not a party in any of the cases in which the order was signed.

Taxpayers may, under certain limited circumstances, possess standing to challenge the lawfulness of government acts. *See Bland Indep. Sch. Dist. v. Blue*, 34 S.W.3d 547, 555 (Tex.

2000); *Verney v. Abbott*, No. 03-05-00064-CV, 2006 WL 2082085, at *7 (Tex. App.—Austin July 28, 2006, no pet.).¹ That limited grant of standing to bring a civil suit to challenge a government act does not, however, authorize a taxpayer to challenge an order in a criminal case in which he is not a party. *See In re Amos*, 397 S.W.3d 309, 314 (Tex. App.—Dallas 2013, orig. proceeding) (parties to a criminal case are the State and the accused); *see also In re Wingfield*, 171 S.W.3d 374, 381 (Tex. App.—Tyler 2005, orig. proceeding) (“Unlike the Rules of Civil Procedure, the Code of Criminal Procedure makes no provision for a third party to intervene in a ‘criminal action.’”).

Standing is an element of an appellate court’s subject-matter jurisdiction over an original proceeding. *See In re Baker*, 404 S.W.3d 575, 577 (Tex. App.—Houston [1st Dist.] 2010, orig. proceeding). Because relator lacks standing to challenge the trial court’s order, we dismiss the petition.

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

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¹ The question whether relator possesses standing to challenge the payments to the attorneys pro tem in a civil suit is not before this Court in this original proceeding.