

Dismissed w.o.j. and Opinion Filed October 10, 2017



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-01020-CV

IN RE JAMES NICHOLAS DOTSON, Relator

Original Proceeding from the 199th Judicial District Court
Collin County, Texas
Trial Court Cause No. 199-82667-07

MEMORANDUM OPINION

Before Justices Lang, Myers, and Boatright
Opinion by Justice Myers

In 2009, relator was convicted of injury to a child/serious bodily injury. That judgment is now final. In this original proceeding, relator seeks a writ ordering the trial court to rule on a motion to vacate void judgment that relator filed March 8, 2017. Texas Code of Criminal Procedure Article 11.07 is the exclusive procedure available to an applicant seeking relief from a felony judgment imposing a penalty other than death. TEX. CODE CRIM. PROC. ANN. art. 11.07 §§ 1, 5 (West Supp. 2014). An intermediate appellate court has no jurisdiction to rule on matters pertaining to a pending Article 11.07 application. *Padieu v. Court of Appeals of Tex., Fifth Dist.*, 392 S.W.3d 115, 117–18 (Tex. Crim. App. 2013).

Article 11.07 applies to relator’s motion to vacate void judgment because the motion seeks relief from and the vacatur of a final felony conviction. *See, e.g., In re Smith*, 366 S.W.3d 268, 270 (Tex. App.—Tyler 2012, orig. proceeding) (motion for court of inquiry attacking validity of final felony convictions constituted application for post-conviction writ of habeas

corpus). This Court has no jurisdiction to rule on any matters pertaining to a pending Article 11.07 habeas application. *See Padieu*, 392 S.W.3d at 117–18. We, therefore, lack jurisdiction to reach the merits of relator’s complaint. *See In re Thompson*, No. 05-17-00168-CV, 2017 WL 727847, at *1 (Tex. App.—Dallas Feb. 24, 2017, orig. proceeding) (mem. op.) (no writ jurisdiction to order trial court to expunge the records and judgment from the underlying case because relator was effectively challenging the validity of his final felony conviction); *In re Nickerson*, No. 05-13-01692-CV, 2013 WL 6596878, at *1 (Tex. App.—Dallas Dec. 16, 2013, orig. proceeding) (mem. op.) (no writ jurisdiction to order trial court to rule on petition for writ of habeas corpus in post-conviction felony proceeding); *see also In re McCreary*, No. 12-17-00278-CR, 2017 WL 4321340, at *1 (Tex. App.—Tyler Sept. 29, 2017, orig. proceeding) (mem. op.) (same).

Accordingly, we dismiss relator’s petition for writ of mandamus for want of jurisdiction.

/s/Lana Myers/

LANA MYERS
JUSTICE

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