

Dismissed and Opinion Filed September 8, 2017



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-01041-CV

IN RE MESQUETA DEWAYNE SMITH, Relator

Original Proceeding from the Criminal District Court No. 5
Dallas County, Texas
Trial Court Cause No. F-1454337-L

MEMORANDUM OPINION

Before Justices Francis, Brown, and Whitehill
Opinion by Justice Francis

In this original proceeding, relator asks this Court to issue a writ directing the district clerk to send relator confirmation that relator's motion for Chapter 64 DNA testing has been filed.

This Court does not have jurisdiction to issue a writ of mandamus against a district clerk unless it is necessary to enforce our own jurisdiction. TEX. GOV'T CODE § 22.221(a) (court of appeals may only issue writ of mandamus against district and county judges or as necessary to enforce jurisdiction of appellate court); *In re Wilkerson*, No. 05-16-00322-CV, 2016 WL 1320815, at *1 (Tex. App.—Dallas Apr. 5, 2016, orig. proceeding) (mem. op.) (citing *In re Simpson*, 997 S.W.2d 939, 939 (Tex. App.—Waco 1999, orig. proceeding)). Relator has no appeal pending in this Court and, therefore, our jurisdiction is not in jeopardy.

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

/Molly Francis/
MOLLY FRANCIS
JUSTICE

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