

DISMISS; and Opinion Filed April 4, 2018.



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

No. 05-18-00333-CV

IN RE KEITH L. SOMERVILLE, Relator

**Original Proceeding from the 204th Judicial District Court
Dallas County, Texas
Trial Court Cause No. F87-94983-NQ**

MEMORANDUM OPINION

Before Justices Lang-Miers, Fillmore, and Stoddart
Opinion by Justice Fillmore

This Court affirmed relator Keith L. Somerville’s felony conviction of burglary of a habitation with intent to commit sexual assault on November 10, 1993. *Somerville (Keith Lawrence) v. State*, No. 05-92-00395-CR, 1993 WL 459995, at *1 (Tex. App.—Dallas Nov. 10, 1993, writ. ref’d, untimely filed) (not designated for publication). Now before the Court is relator’s March 27, 2018 petition for “writ of prohibition and writ of quo warranto” in which he seeks a writ dismissing the indictment in the underlying proceeding and vacating the subsequent conviction.

This proceeding is a collateral attack on a final conviction and, therefore, falls within the scope of a post-conviction writ of habeas corpus under article 11.07 of the Texas Code of Criminal Procedure. *See* TEX. CODE CRIM. PROC. ANN. art. 11.07 (West 2015). Only the Texas Court of Criminal Appeals has jurisdiction in final, post-conviction felony proceedings. *Id; Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding); *In re McAfee*,

53 S.W.3d 715, 717 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). As such, we may not grant a writ of mandamus, a writ of injunction, or any other writ that would result in vacating a judgment of conviction. *See Ex parte Kennedy*, No. 12-17-00279-CR, 2017 WL 4321333, at *1 (Tex. App.—Tyler Sept. 29, 2017, orig. proceeding) (mem. op.) (citing *Ater*, 802 S.W.2d at 243). Accordingly, we dismiss this proceeding for want of jurisdiction.

/Robert M. Fillmore/

ROBERT M. FILLMORE

JUSTICE

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