

Dismissed w.o.j. and Opinion Filed June 28, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00703-CV

IN RE JUAN LOPEZ, Relator

Original Proceeding from the Criminal District Court No. 2
Dallas County, Texas
Trial Court Cause No. F16-40682-I

MEMORANDUM OPINION

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

In this original proceeding, relator Juan Lopez seeks a writ of mandamus directing Felicia Pitre, Dallas County District Clerk, to transmit to the Texas Court of Criminal Appeals a copy of relator's application for writ of habeas corpus purportedly filed in the trial court.

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 Simpson*, 997 S.W.2d 939, 939 (Tex. App.—Waco 1999, orig. proceeding) (dismissing petition for writ of mandamus that sought a writ compelling district clerk to accept a motion for filing). Relator has no appeal pending in this Court. Further, only the Texas Court of Criminal Appeals has jurisdiction in final post-conviction felony proceedings. *See* TEX. CODE CRIM. PROC. ANN. art. 11.07 (West 2015); *In re McAfee*, 53 S.W.3d 715, 717 (Tex. App.—Houston [1st Dist.] 2001, no pet.); *Ater v. Eighth Court of Appeals*, 802

S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding). As such, our jurisdiction is not in jeopardy. We, therefore, lack writ jurisdiction over the district clerk. *See, e.g., In re Reese*, No. 05-17-00607-CV, 2017 WL 2610039, at *1 (Tex. App.—Dallas June 16, 2017, orig. proceeding) (dismissing proceeding seeking writ against district clerk for refusing to file documents).

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

/Douglas S. Lang/
DOUGLAS S. LANG
JUSTICE

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