

Opinion issued May 29, 2008



In The
Court of Appeals
For The
First District of Texas

NO. 01-08-00361-CR

IN RE PETER SILVA, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Peter Silva, has filed a *pro se* application for mandamus relief, seeking an order compelling the district attorney to show cause why the trial court should not set an appeal bond following his conviction of assault of a public servant in case number 1094950 in the 262nd District Court of Harris County, Texas. Silva

has appealed that conviction to this Court, appeal number 01-07-01038-CR, and the appeal is pending. We dismiss the application.

We may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district or county court in our district. TEX. GOV'T CODE ANN. § 22.221(b) (Vernon Supp. 2004). We may also issue writs of mandamus and all other writs necessary to enforce our jurisdiction. TEX. GOV'T CODE ANN. § 22.221(a) (Vernon Supp. 2004). Mandamus issues only to correct a clear abuse of discretion or the violation of a duty imposed by law when there is no other adequate remedy at law. *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992). Relator's request for an order compelling the district attorney to show cause why the trial court should not set an appeal bond does not fall within our mandamus authority.

Even if we considered relator's request as a petition for writ of habeas corpus, we have neither original habeas corpus jurisdiction in criminal cases, nor post-conviction habeas corpus jurisdiction in felony cases. *See Board of Pardons & Paroles ex rel. Keene v. Court of Appeals for the Eighth District*, 910 S.W.2d 481, 483 (Tex. Crim. App. 1995); TEX. CODE CRIM. PROC. ANN. art. 11.07, § 3 (Vernon Supp. 2007).

The application for mandamus relief is therefore **dismissed**.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Keyes and Higley.

Do not publish. TEX. R. APP. P. 47.2(b).