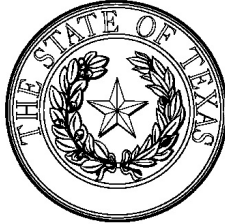


Opinion issued October 16, 2008



In The
Court of Appeals
For The
First District of Texas

NO. 01-08-00805-CR

IN RE PATRICK FRANKLIN, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator Patrick Franklin filed a pro se petition for writ of mandamus complaining that the trial court has not ruled on matters related to his post conviction writ of habeas corpus filed in cause 974028.¹ We dismiss the petition for lack of jurisdiction.

¹ Respondent is the Honorable Don Stricklin, Judge, 337th District Court, Harris County. Relator's petition does not contain a certificate of service for Respondent. *See* TEX. R. APP. P. 9.5, 52.3(j)

This Court issued an opinion affirming relator's conviction in cause number 974028 on September 28, 2006. *See Franklin v. State*, No. 01-06-00955-CR, 2006 WL 2772750, (Tex. App.—Houston [1st Dist.] Sep. 28, 2006, pet. ref'd) (not designated for publication). The judgment of the trial court became final when our mandate issued on June 25, 2007.

This Court has no authority to issue a writ of mandamus to compel a district court judge to rule on a petition for writ of habeas corpus in which the judgment of conviction is final. *In re McAfee*, **53 S.W.3d 715**, 718 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). Neither do we have jurisdiction to grant post-conviction habeas corpus relief in felony cases because that jurisdiction rests exclusively with the Texas Court of Criminal Appeals. TEX. CODE CRIM. PROC. ANN. Art. 11.07 § 3, (Vernon Supp. 2008); *Ater v. Eight Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding).

Accordingly, the petition for writ of mandamus is dismissed for lack of jurisdiction.

PER CURIAM

Panel consists of Justices Taft, Keyes, and Alcalá.

Do not publish.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