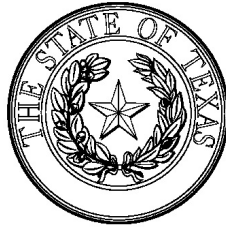


Opinion issued December 4, 2008



In The
Court of Appeals
For The
First District of Texas

NO. 01-08-00903-CR

IN RE DARREN MCAFEE, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Darrren McAfee, has filed a *pro se* petition for writ of mandamus complaining that he has not been provided a free transcript of the record, in trial court cause number 83316, to use in preparing a post-conviction writ of habeas corpus.¹

¹ Relator names Theresa Chang, Harris County District Clerk, as respondent. However, relator asks this court to order, Don R. Stricklin, Judge of the 337th

(continued...)

Relator also complains that neither the District Clerk nor the trial court has responded to his requests for an indigency hearing. We note that relator appealed his conviction in cause number 833161, and that the appeal was assigned to this Court as appellate number 01-00-00470-CR. We issued an opinion affirming the judgment of the trial court in cause number 833161. *McAfee v. State*, No. 01-00-00470-CR, 2001 WL 619543, (Tex. App.—Houston [1st Dist.], 2001, pet. ref'd) (not designated for publication). Our mandate issued on July 18, 2002. The conviction in cause number 833161 is final.

This Court has mandamus jurisdiction over a district court judge or county court judge in our district, and all writs necessary to enforce our jurisdiction. *See* TEX. GOV'T CODE ANN. § 22.221 (Vernon 2008). We have no authority to issue a writ of mandamus to compel a district court judge to rule on matters related to 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). Nor do we have authority to issue a writ of mandamus against a district clerk unless such is necessary to enforce our jurisdiction. *In re Coronado*, 980 S.W.2d 691, 692 (Tex.

(...continued)

District Court of Harris County, Texas, to conduct an indigency hearing.

We note that relator's petition does not meet the requirements of the Texas Rules of Appellate Procedure. Relator's petition does not contain a certificate of service for Judge Stricklin or for Theresa Chang, Harris County District Clerk. *See* TEX. R. APP. P. 9.5, 52.3(j).

App.—San Antonio 1998, orig. proceeding). This is because jurisdiction to grant post-conviction habeas corpus relief in felony cases rests exclusively with the Texas Court of Criminal Appeals. TEX. CODE CRIM. PROC. ANN. art. 11.07, § 3 (Vernon Supp. 2008); *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).

Therefore, the petition for writ of mandamus is dismissed for want of jurisdiction.

PER CURIAM

Panel consists of Justices Taft, Keyes, and Alcala.

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

