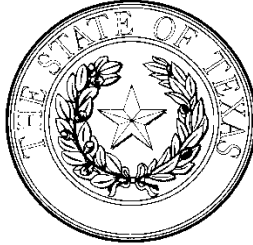


Opinion issued March 31, 2011



In The
Court of Appeals
For The
First District of Texas

NO. 01-11-00086-CV

IN RE P.L.M., Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, P.L.M., has filed a pro se petition for writ of mandamus. *See* TEX. GOV'T CODE ANN. § 22.221(b) (Vernon 2004); *see also* TEX. R. APP. P. 52.1. In November 1991, when he was 15 years old P.L.M. was adjudicated a delinquent for committing the offense of murder and given a 30-year determinate sentence. When he was 17 years old, P.L.M. was transferred from the custody of the Texas

Youth Commission to an adult prison facility, where he remains incarcerated.¹ In this original mandamus proceeding, P.L.M. complains that the Harris County District Clerk has refused to file his application for writ of habeas corpus in the district court.²

This Court has jurisdiction to issue writs of mandamus against district and county court judges, to issue writs of mandamus against a district judge acting as magistrate in a court of inquiry, and to issue all other writs necessary to enforce its own jurisdiction. *See* TEX. GOV'T CODE ANN. § 22.221 (Vernon 2004). This Court does not have mandamus jurisdiction over a district clerk unless such is necessary to enforce the Court's jurisdiction. *See In re Hayes*, No. 01-05-00899-CR, 2005 WL 2989878, at *1 (Tex. App.—Houston [1st Dist.] 2005, orig.

¹ The underlying suit is *In the Matter of [P.L.M.]*, No. 76686 (314th Dist. Court, Harris County, Tex.).

² The named respondent is Loren Jackson, former Harris County District Clerk. Mr. Jackson is, however, no longer Harris County District Clerk and was succeeded by Chris Daniels, the current district clerk. “When a public officer is a party in an official capacity to an appeal or original proceeding, and if that person ceases to hold office before the appeal or original proceeding is finally disposed of, the public officer’s successor is automatically substituted as a party if appropriate.” TEX. R. APP. P. 7.2(a). Thus, we substitute Chris Daniels for Loren Jackson as respondent. *See id.* We acknowledge that, pursuant to Rule of Appellate Procedure 7.2(b), this Court should abate an original proceeding in which one public officer is substituted for another as a party in order to “allow the successor to reconsider the original party’s decision.” TEX. R. APP. P. 7.2(b). However, we conclude abatement is not appropriate here because we ultimately determine, as discussed *infra*, that we have no jurisdiction in this original mandamus proceeding.

proceeding) (mem. op.) (holding court had no mandamus jurisdiction when relator complained that district clerk refused to file petition because he made no showing that mandamus relief was necessary to enforce appellate court’s jurisdiction); *cf. In re Smith*, 263 S.W.3d 93, 95 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding) (holding court had jurisdiction to issue writ of mandamus against district clerk who refused to file and forward to appellate court notice of appeal and “documents integral to the appellate timetable” because such documents necessary for the appellate court to enforce jurisdiction); *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding) (granting mandamus relief against district clerk who refused to forward notice of appeal because notice was necessary to enforce jurisdiction). Here, P.L.M. has not shown that issuance of a writ of mandamus is necessary for this Court to enforce its jurisdiction.³ *See Hayes*, 2005 WL 2989878, at *1; *Smith*, 263 S.W.3d at 95; *Washington*, 7 S.W.3d at 182–83.

³ A refusal to file by the district clerk may, however, implicate the jurisdiction of the district court, and P.L.M may consider whether it is proper for him to seek mandamus relief in that court. *See* TEX. GOV’T CODE ANN. §24.011 (Vernon 2004) (“A judge of a district court may, either in termtime or vacation, grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari, and supersedeas and all other writs necessary to the enforcement of the court’s jurisdiction”).

We conclude that we do not have jurisdiction to issue a writ of mandamus in this original proceeding. Accordingly, we dismiss P.L.M.'s petition for writ of mandamus.

PER CURIAM

Panel consists of Justices Jennings, Higley, and Brown.