

Opinion issued August 11, 2011



**In The
Court of Appeals
For The
First District of Texas**

NO. 01-11-00579-CR

IN RE THOMAS LEE FIFER, Relator

**On Appeal from the 184th District Court
Harris County, Texas
Trial Court Case No. 1117100**

MEMORANDUM OPINION

Relator, Thomas Lee Fifer, has filed a pro se petition for writ of mandamus complaining that the trial court has abused its discretion in not convening a hearing and ruling on his motion for a free transcript of the record in trial court cause number 1117100 to use in preparing his post-conviction writ of habeas corpus. We note that relator appealed his felony conviction in cause number 1117100, and we

affirmed the judgment of the trial court. *See Fifer v. State*, No. 01–07–00894–CR, 2008 WL 4530720, at *4 (Tex. App.—Houston [1st Dist.] Oct. 9, 2008, pet. ref’d) (mem. op., not designated for publication). Our mandate issued on April 10, 2009. Thus, the conviction in cause number 1117100 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); *see also In re Padieu*, No. 05–11–00883–CV, 2011 WL 2816736, at *1 (Tex. App.—Dallas July 19, 2011, orig. proceeding) (mem. op., not designated for publication); *In re McAfee*, No. 01-08-00903-CR, 2008 WL 5102260, at *1 (Tex. App.—Houston [1st Dist.] Dec. 4, 2008, orig. proceeding) (mem. op., not designated for publication). 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. 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. 2010); *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 Jennings, Bland, and Massengale.

Do not publish.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