

Opinion issued December 15, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00637-CR

IN RE JOHN JON NICHOLSON, Relator

Original Proceeding on Petition for Writ of Habeas Corpus

MEMORANDUM OPINION ON REHEARING

Relator, John Jon Nicholson, has filed a motion for rehearing of our September 24, 2020 memorandum opinion.¹ We deny the motion for rehearing, withdraw our memorandum opinion of September 24, 2020, and issue the following memorandum opinion in its stead.

¹ See TEX. R. APP. P. 49.1.

Relator, John Jon Nicholson, has filed a pro se “Application for Writ of Habeas Corpus,” asserting that he is “currently being unlawfully held in the Harris County Jail.” Relator is charged with the felony offense of theft.² Relator states in his application that he “is challenging the trial court[’]s denial of his writ of habeas corpus.” In a supporting document, however, he says that “nothing has been done or reply made” in response to his various filings in the trial court.

We do not have original habeas corpus jurisdiction in felony cases. *See* TEX. CODE CRIM. PROC. ANN. arts. 4.03, 11.08; TEX. GOV’T CODE ANN. § 22.221; *In re Thacker*, No. 03-14-00118-CV, 2014 WL 1464977, at *1 (Tex. App.—Austin Apr. 11, 2014, orig. proceeding) (mem. op., not designated for publication) (court of appeals lacked jurisdiction over application for pretrial writ of habeas corpus); *In re Shaw*, 175 S.W.3d 901, 903 (Tex. App.—Texarkana 2005, orig. proceeding) (same).

Further, even if we were to construe relator’s application as an attempted appeal of an order or orders of the trial court denying his application or applications for a writ of habeas corpus, the record contains no such order. Unless a written, signed order of the trial court appears in the record, we have no jurisdiction over an appeal. *See, e.g., Broussard v. State*, No. 01-10-00458-CR,

² The underlying case is *The State of Texas v. John Nicholson*, Cause No. 1666868, pending in the 179th District Court of Harris County, Texas, the Honorable Randy Roll presiding.

2010 WL 4056861, *2 (Tex. App.—Houston [1st Dist.] Oct. 14, 2010, no pet.) (mem. op., not designated for publication); *Wallace v. State*, Nos. 12-01-00353-CR, 12-01-00354-CR, 2002 WL 657396, *1 (Tex. App.—Tyler Apr. 12, 2002, no pet.) (not designated for publication); *cf.* TEX. R. APP. P. 34.5(a)(5) (requiring copy of order being appealed to appear in record).

Accordingly, we dismiss the application for lack of jurisdiction. We dismiss any other pending motions as moot.

PER CURIAM

Panel consists of Justices Kelly, Goodman, and Countiss.

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