

**Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed  
September 1, 2010.**



**In The**

**Fourteenth Court of Appeals**

---

**NO. 14-10-00826-CR**

---

**IN RE MICHAEL WAYNE BARNES, Relator**

---

---

**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS**

---

---

**MEMORANDUM OPINION**

On August 26, 2010, relator, Michael Wayne Barnes, filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann. § 22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to compel the presiding judge of the 183rd District Court of Harris County to designate the issues to be resolved pursuant to Article 11.07 of the Texas Code of Criminal Procedure in the underlying habeas corpus proceeding.<sup>1</sup>

---

<sup>1</sup> Tex. Code Crim. Proc. Ann. art. 11.07 (Vernon Supp. 2009).

Although courts of appeals have jurisdiction in criminal matters, only the Texas Court of Criminal Appeals has jurisdiction over matters related to final post-conviction felony proceedings. *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding). “[C]ourts of appeals have no authority to issue writs of mandamus in criminal law matters pertaining to [post-conviction habeas] proceedings.” *In re McAfee*, 53 S.W.3d 715, 718 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). Therefore, this court does not have jurisdiction to compel the trial court to designate the issues to be resolved in the underlying habeas corpus proceeding.

Relator alternatively requests that this court compel the district clerk to forward his application for writ of habeas corpus and related records to the Texas Court of Criminal Appeals. A court of appeals has no general writ power over a person—other than a judge of a district court or county court—unless issuance of the writ is necessary to enforce the court’s jurisdiction. *See* Tex. Gov’t Code Ann. § 22.221. A court of appeals has no jurisdiction to issue a writ of mandamus against a district clerk unless necessary to enforce its jurisdiction. *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding). Relator has not shown that a writ of mandamus directed to the district clerk is necessary to enforce our jurisdiction because this court has no jurisdiction over matters related to post-conviction habeas corpus proceedings. *See Ater*, 802 S.W.2d at 243; *In re McAfee*, 53 S.W.3d at 718. Therefore, this court does not have jurisdiction to issue a writ of mandamus against the district clerk.

Accordingly, relator’s petition for writ of mandamus is ordered dismissed for lack of jurisdiction.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Yates and Sullivan.

Do Not Publish—Tex. R. App. P. 47.2(b).