

Petition for Writ of Mandamus Dismissed and Opinion filed May 18, 2016.



In The

Fourteenth Court of Appeals

NO. 14-17-00335-CR

IN RE JAMES THOMAS GREEN, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
248th District Court
Harris County, Texas
Trial Court Cause No. 715266**

MEMORANDUM OPINION

In 1995, a jury convicted relator James Thomas Green of the murder of Sharon Green, and the trial court sentenced him to confinement for 35 years in the Institutional Division of the Texas Department of Criminal Justice. This court affirmed his conviction. *Green v. State*, No. 14-96-01536-CR, 1999 WL 33620

(Tex. App.—Houston [14th Dist.] Jan. 28, 1999, pet. ref'd) (not designated for publication), cert. denied, 529 U.S.1059 (2000).

On April 28, 2017, relator filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code Ann. § 22.221 (West 2004); *see also* Tex. R. App. P. 52. In the petition, relator asks this court to compel the Honorable Katherine Cabaniss, presiding judge of the 248th District Court of Harris County, to rule on relator's "Petition for Declaratory Judgment and Motion for Appointment of Counsel," filed on February 10, 2017.

In the he "Petition for Declaratory Judgment," relator asks the trial court to order the Harris County Institute of Forensics Sciences to reopen the inquest/investigation into Sharon Green's death, and to publish a corrected Autopsy Report and Death Certificate.

Relator's petition for writ of mandamus constitutes a collateral attack on his final felony conviction and so falls within the scope of a post-conviction writ of habeas corpus under article 11.07 of the Texas Code of Criminal Procedure. *See* Tex. Code Crim. Proc. Ann. art. 11.07 § 3. Article 11.07 provides the exclusive means to challenge a final felony conviction. *Board of Pardons & Paroles ex rel. Keene v. Court of Appeals for Eighth Dist.*, 910 S. W.2d 481, 483 (Tex. Crim. App. 1995). While the courts of appeals have mandamus jurisdiction in criminal matters, only the Texas Court of Criminal Appeals has jurisdiction over matters related to final post-conviction felony proceedings. *In re McAfee*, 53 S.W.3d 715, 718 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). We have no jurisdiction to issue a writ of mandamus to compel a district court to rule on

matters seeking post-conviction relief in felony convictions in which the judgment is final. *See In re McAfee*, 53 S.W.3d at 718.

Accordingly, we dismiss relator's petition for writ of mandamus for lack of jurisdiction.

PER CURIAM

Panel consists of Chief Justice Frost and Justices Donovan and Wise.
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