



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00305-CR

IN RE Richard LARES

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Karen Angelini, Justice
Marialyn Barnard, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: July 12, 2017

PETITION FOR WRIT OF MANDAMUS DISMISSED FOR LACK OF JURISDICTION

On May 11, 2017, relator Richard Lares filed a petition for writ of mandamus, complaining the trial court was refusing to rule on a motion filed by Relator in which Realtor seeks a ruling from the trial court voiding Relator's conviction. According to Relator's petition for writ of mandamus, the motion was filed in a habeas corpus proceeding. A response filed by Respondent confirms the motion was filed in a pending habeas corpus proceeding.

Jurisdiction in final post-conviction felony proceedings is reserved to the Texas Court of Criminal Appeals. TEX. CODE CRIM. PROC. ANN. art 11.07, § 5 (West 2015); *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991); *In re McAfee*, 53 S.W.3d 715, 717–18 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). We have no jurisdiction over a

¹ This proceeding arises out of Cause No. 2006CR10110, styled *State of Texas v. Richard Lares*, pending in the 399th Judicial District Court, Bexar County, Texas, the Honorable Frank J. Castro presiding.

mandamus petition relating to a final post-conviction felony habeas corpus proceeding. *In re McAfee*, 53 S.W.3d at 718. Because the relief sought in Relator's petition for writ of mandamus relates to a final post-conviction felony habeas corpus proceeding, we are without jurisdiction to consider his petition.

Accordingly, relator's petition is DISMISSED FOR LACK OF JURISDICTION.

PER CURIAM

DO NOT PUBLISH