



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-18-00638-CR

In re John David Garcia

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Marialyn Barnard, Justice
Rebeca C. Martinez, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: September 26, 2018

PETITION FOR WRIT OF MANDAMUS DISMISSED FOR LACK OF JURISDICTION

In 2012, relator pled guilty to aggravated assault with a deadly weapon. In 2015, the trial court adjudicated relator guilty. In this original proceeding, relator complains of the trial court's failure to rule on his motion for writ of nunc pro tunc in which he asked the trial court to dismiss his underlying case and release him from custody. This proceeding is a collateral attack on a final conviction and, therefore, falls within the scope of a post-conviction writ of habeas corpus under article 11.07 of the Texas Code of Criminal Procedure. TEX. CODE CRIM. PROC. ANN. art. 11.07 (West 2015). Only the Texas Court of Criminal Appeals has jurisdiction in final, post-conviction felony proceedings. *Id.*; see also *Padieu v. Court of Appeals of Tx., Fifth Dist.*, 392 S.W.3d 115,

¹ This proceeding arises out of Cause No. 11-05-075-CRW, styled *The State of Texas v. John David Garcia*, pending in the 81st Judicial District Court, Wilson County, Texas, the Honorable Russell Wilson presiding.

117 (Tex. Crim. App. 2013) (orig. proceeding) (per curiam). Accordingly, we dismiss this proceeding for want of jurisdiction.

PER CURIAM

DO NOT PUBLISH