

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-19-00249-CR

IN RE BENNIE RAY JOHNSON

Original Proceeding
221st District Court of Montgomery County, Texas
Trial Cause No. 19-07-09863-CR

MEMORANDUM OPINION

In an original petition for a writ of mandamus, Bennie Ray Johnson complains that he has been held in jail on a charge of burglary of a habitation following a probable cause hearing based upon the arresting officer's police report and not upon a complaint signed by the victim of the burglary. Johnson failed to provide any supporting documentation with his mandamus petition. Additionally, "[i]t is well settled that an information may be predicated upon a complaint or affidavit made

upon information and belief.” *Catchings v. State*, 285 S.W.2d 233, 344 (Tex. Crim. App. 1955).

Release from confinement in a criminal case is obtained through habeas corpus, over which this Court lacks original jurisdiction. *See* Tex. Code. Crim. Proc. Ann. arts. 11.01, 11.05 (West 2015). Furthermore, to the extent his petition seeks relief against the Montgomery County District Attorney’s Office and the Montgomery County Sheriff’s Office, or the officials holding those offices, we lack mandamus jurisdiction. *See* Tex. Gov’t Code Ann. § 22.221 (West Supp. 2018). To the extent that he seeks mandamus relief against the Judge of the 221st District Court of Montgomery County, Johnson has failed to show that he is entitled to the relief sought. *See* Tex. R. App. P. 52.7(a)(1) (relator must file with petition “a certified or sworn copy of every document that is material to the relator’s claim for relief and that was filed in any underlying proceeding[.]”). Accordingly, we deny the petition for a writ of mandamus. *See* Tex. R. App. P. 52.8(a).

PETITION DENIED.

PER CURIAM

Submitted on August 20, 2019
Opinion Delivered August 21, 2019
Do Not Publish

Before McKeithen, C.J., Horton and Johnson, JJ.