

NO. 07-09-0312-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL B

SEPTEMBER 23, 2009

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IN RE: LUIS S. LEGATE, JR.

Relator

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***ORIGINAL MANDAMUS PROCEEDING***

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BEFORE QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Pending before the court is a “Petition for Writ of Mandamus[,] Plaintiffs [sic] Original Petition of Complaint for the Deliberate Denial of Proper Medical Treatment . . .” filed by Luis S. Legate, Jr. Through it, Legate complains about medical treatment he received while incarcerated in a Texas prison. We dismiss the petition.

As an appellate court, we have the authority to issue writs of mandamus to protect our jurisdiction and against a district and county court judge. TEX. GOV. CODE ANN. §22.221(a) & (b) (Vernon 2004). The relief sought by Legate is not against a judge. Nor does the underlying dispute implicate a pending appeal. See *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.–Houston [1<sup>st</sup> Dist.] 1999, no pet.) (holding that an appellate court may issue mandamus to protect its jurisdiction when the relief sought implicates a pending appeal). Thus, we have no jurisdiction over the matter.

The petition for writ of mandamus is dismissed.

Per Curiam