



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-17-00312-CV

IN RE CARLOS WAYNE TOOMBS, RELATOR

OPINION ON ORIGINAL PROCEEDING FOR WRIT OF MANDAMUS

September 1, 2017

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Relator, Carlos Wayne Toombs, again has filed a petition for writ of mandamus and again requests that we order the District Judge for the 108th Judicial District, Potter County, to appoint counsel and hold a hearing on his motion for DNA testing. We again deny the petition.

As previously stated in *In re Toombs*, No. 07-17-00154-CV, 2017 Tex. App. LEXIS 6535, at *1 (Tex. App.—Amarillo July 14, 2017, orig. proceeding) (per curiam) (mem. op.), the trial court denied his motion for DNA testing, and, therefore, implicitly denied his request for appointed counsel. And, because an order denying DNA testing is appealable, Toombs had an adequate remedy at law. *Id.* at *2. Thus, the existence

of that remedy pretermits the availability of equitable relief via a writ of mandamus. See *id.*

Arguably, his petition also may be read as his requesting us to issue a writ of mandamus ordering the Potter County District Attorney to disclose to him the results of DNA testing conducted under its direction. We lack the authority to issue such a writ directed at a district attorney unless same is necessary to enforce our jurisdiction. *In re Brannon*, No. 14-13-00297-CV, 2013 Tex. App. LEXIS 4740, at *4 (Tex. App.—Houston [14th Dist.] Apr. 16, 2013, orig. proceeding) (mem. op.). Toombs does not suggest we must somehow protect our jurisdiction by issuing the writ against the district attorney. Nor do we conclude that such a writ is necessary for that purpose.

For the foregoing reasons, Toombs's most recent petition for writ of mandamus is denied.

Brian Quinn
Chief Justice