



**IN THE  
TENTH COURT OF APPEALS**

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**No. 10-14-00340-CR**

**IN RE MILTON LEE GARDNER**

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**Original Proceeding**

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**MEMORANDUM OPINION**

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In this mandamus proceeding, Milton Lee Gardner requests this Court to order the Limestone County District Clerk to rule on his pretrial writ of habeas corpus filed with the trial court on September 9, 2014, and if the ruling does not grant relief, to transmit the writ to the Court of Appeals. There are procedural problems with this petition, including that it has not been served on the District Clerk as the respondent or the State as the real party in interest, *see* TEX. R. APP. P. 9.5; 52.2; however, we use Rule 2 and look beyond these deficiencies to dispose of Gardner's petition. TEX. R. APP. P. 2.

As a Court of Appeals, we have no jurisdiction to compel a district clerk to act except to enforce our jurisdiction. *See* TEX. GOV'T CODE ANN. § 22.221(a), (b) (West 2004). Gardner has not alleged any need for this Court to protect that jurisdiction.

Accordingly, Gardner's petition is dismissed for want of jurisdiction.

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins

Petition dismissed

Opinion delivered and filed November 20, 2014

Do not publish

[OT06]

