

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-06-00164-CV

In re Burkhart Enterprises

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relator Burkhart Enterprises seeks a writ of mandamus compelling the Honorable Herb Evans, Justice of the Peace, Travis County, Precinct Five, to vacate an order transferring venue from Travis County to Dallas County on the ground that the justice-of-the-peace court lacked jurisdiction to issue the order. This Court’s power to issue writs of mandamus is governed by Section 22.221 of the Texas Government Code. Tex. Gov’t Code Ann. § 22.221 (West 2004). Because relator does not contend that the respondent has interfered with this Court’s jurisdiction, the question is whether this Court may issue a writ of mandamus to a justice of the peace under section 22.221(b). *See id.* We hold that we cannot.

Section 22.221(b) limits this Court’s jurisdiction to issue writs of mandamus “against a . . . judge of a district or county court” or “judge of a district court who is acting as a magistrate at a court of inquiry” under Chapter 52 of the Code of Criminal Procedure. The statute does not authorize this Court to issue writs of mandamus against a justice of the peace. *Easton v. Franks*, 842 S.W.2d 772, 773 (Tex. App.–Houston [1st Dist.] 1992, orig. proceeding); *Simpson v. Morgan*, 779

S.W.2d 509, 510 (Tex. App.–Beaumont 1989, orig. proceeding). Although Relator claims that it sought mandamus relief in the county court-at-law and that court denied relief, there is nothing in the record before us to support Relator’s allegations.

Accordingly, we dismiss this original proceeding for want of jurisdiction.

Jan P. Patterson, Justice

Before Chief Justice Law, Justices Patterson and Pemberton

Filed: June 12, 2006