



NUMBER 13-17-00175-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE WILLIAM ISAAC HOFF

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Justices Contreras, Benavides, and Longoria
Memorandum Opinion by Justice Longoria¹**

Relator William Isaac Hoff filed a pro se petition for writ of mandamus in the above cause on April 5, 2017. By numerous issues, relator seeks to set aside his January 16, 2014 judgment of conviction for the third degree felony offense of taking a weapon from a peace officer following the revocation of his community supervision, which was originally imposed on March 15, 2010. See TEX. PENAL CODE ANN. § 38.14 (West, Westlaw through 2015 R.S.). Relator contends that the judgment should be set aside because (1) the trial

¹ See TEX. R. APP. P. 52.8(d) (“When denying relief, the court may hand down an opinion but is not required to do so.”); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

court abused its discretion in various respects; (2) relator's due process rights were violated; (3) his counsel provided ineffective assistance; (4) his conviction violated double jeopardy principles; and (5) his sentence was void because it constituted a "split sentence."

To be entitled to mandamus relief, the relator must establish both that he has no adequate remedy at law to redress his alleged harm, and that what he seeks to compel is a purely ministerial act not involving a discretionary or judicial decision. *In re Harris*, 491 S.W.3d 332, 334 (Tex. Crim. App. 2016) (orig. proceeding); *In re McCann*, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (orig. proceeding). If the relator fails to meet both of these requirements, then the petition for writ of mandamus should be denied. *State ex rel. Young v. Sixth Jud. Dist. Ct. of Apps. at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007). It is the relator's burden to properly request and show entitlement to mandamus relief. *Barnes v. State*, 832 S.W.2d 424, 426 (Tex. App.—Houston [1st Dist.] 1992, orig. proceeding) ("Even a pro se applicant for a writ of mandamus must show himself entitled to the extraordinary relief he seeks.").

Although courts of appeals have jurisdiction in criminal matters, only the Texas Court of Criminal Appeals has jurisdiction over matters related to final post-conviction felony proceedings. See TEX. CODE CRIM. PROC. ANN. art. 11.07, § 5 (West, Westlaw through 2015 R.S.); *Padieu v. Ct. of App. of Tex., Fifth Dist.*, 392 S.W.3d 115, 117 (Tex. Crim. App. 2013) (orig. proceeding) ("It is well established that only the Court of Criminal Appeals possesses the authority to grant relief in a post-conviction habeas corpus proceeding where there is a final felony conviction."); *Board of Pardons & Paroles ex rel. Keene v. Ct. of App. of Tx., Eighth Dist.*, 910 S.W.2d 481, 483 (Tex. Crim. App. 1995)

("Article 11.07 provides the exclusive means to challenge a final felony conviction. Jurisdiction to grant post-conviction habeas corpus relief on a final felony conviction rests exclusively with [the Court of Criminal Appeals]."). The Court of Criminal Appeals' exclusive jurisdiction under article 11.07 does not necessarily, however, divest the courts of appeals of jurisdiction to decide the merits of a mandamus petition when the relator has no article 11.07 application pending. See *Padieu*, 392 S.W.3d at 117–18.

The Court, having examined and fully considered the limited record presented, is of the opinion that relator has not established that we possess jurisdiction over this original proceeding. See *Padieu*, 392 S.W.3d at 117–18. Accordingly, relator's petition for writ of mandamus is dismissed for lack of jurisdiction. See TEX. R. APP. P. 52.8(a).

NORA L. LONGORIA
Justice

Do not publish.
TEX. R. APP. P. 47.2(b).

Delivered and filed the
7th day of April, 2017.