



NUMBER 13-17-00300-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE D.G.

On Petition for Writ of Habeas Corpus.

MEMORANDUM OPINION

**Before Justices Rodriguez, Contreras, and Benavides
Memorandum Opinion by Justice Contreras¹**

Relator D.G., proceeding pro se, filed a petition for writ of habeas corpus in the above cause through which he contends that he has been wrongfully imprisoned. Relator asserts that he was adjudicated delinquent in 1997 and ordered committed to the Texas Youth Commission. Relator contends that he was transferred to the Texas Department of Criminal Justice without the benefit of a court-ordered transfer hearing and has been

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).

incarcerated since that time.² This Court requested and received a response to the petition from the State of Texas, acting by and through the County and District Attorney for Cameron County, Texas. The State asserted that relator was found delinquent, committed to the Texas Youth Commission for a period of twenty years, discharged from the Texas Youth Commission upon “aging out,” and was released to adult parole on September 26, 2000. The State further stated that an application for writ of habeas corpus arising from a juvenile proceeding should be presented in the first instance to the trial court, and accordingly requested that we abate and remand this matter to the trial court for a determination on the merits after due consideration. We abated and remanded this matter to the trial court, who has now appointed the Honorable Traci L. Evans as counsel to represent relator in the pursuit of habeas relief.

Except when in conflict with a provision of the Texas Family Code, the Texas Rules of Civil Procedure govern juvenile proceedings. See TEX. FAM. CODE ANN. § 51.17(a) (West, Westlaw through 2017 1st C.S.); *In re Dorsey*, 465 S.W.3d 656, 657 (Tex. Crim. App. 2015) (orig. proceeding) (Richardson, J. concurring); *In re M.R.*, 858 S.W.2d 365, 366 (Tex. 1993) (per curiam). A person confined pursuant to an adjudication and disposition in juvenile court may seek habeas corpus relief. See TEX. FAM. CODE ANN. § 56.01(o) (West, Westlaw through 2017 1st C.S.). Juveniles may file applications for writs of habeas corpus pursuant to Article V, Section 8 of the Texas Constitution, which gives “[d]istrict [c]ourt judges . . . the power to issue writs necessary to enforce their jurisdiction.”

² This cause arises from trial court cause number 96-10-523-JB in the 138th District Court of Cameron County, Texas. In 2015, relator filed an application for writ of habeas corpus relief with the trial court under article 11.07 of the code of criminal procedure which the trial court denied on grounds that juvenile proceedings are not criminal in nature and accordingly, relief did not lie under article 11.07. See TEX. CODE CRIM. PROC. ANN. art. 11.07 §§ 1, 5 (West, Westlaw through 2017 1st C.S.). The court of criminal appeals similarly denied relief.

TEX. CONST. art. V, § 8; see *Ex parte Valle*, 104 S.W.3d 888, 890 (Tex. Crim. App. 2003). Thus, to the extent that relator seeks relief from confinement resulting from his juvenile adjudication, relator may file an application for writ of habeas corpus pursuant to Article V, Section 8 of the Texas Constitution with the district court where he was adjudicated. We lack jurisdiction over such a proceeding. See TEX. CONST. art. V, § 6; TEX. GOV'T CODE ANN. § 22.221 (West, Westlaw through 2017 1st C.S.). And, because proceedings in juvenile court are considered civil cases, the Texas Supreme Court, rather than the Texas Court of Criminal Appeals, is the court of last resort for such matters. *In re Dorsey*, 465 S.W.3d at 656; *In re Hall*, 286 S.W.3d 925, 927 (Tex. 2009) (orig. proceeding).

The Court, having examined and fully considered the petition for writ of habeas corpus, the State's response, and the trial court's findings and orders on abatement, is of the opinion that we are without jurisdiction to consider this matter. Therefore, we reinstate this matter. We dismiss this petition for writ of habeas for lack of jurisdiction without reference to the merits and without prejudice to any other habeas corpus relief that may be pursued by relator, and we dismiss all pending motions and outstanding orders as moot.

DORI CONTRERAS
JUSTICE

Delivered and filed this the
7th day of December, 2017.