

NO. 12-11-00362-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE:

§

MICHAEL SAMPSON,

§

ORIGINAL PROCEEDING

RELATOR

§

MEMORANDUM OPINION

Relator Michael Sampson has been indicted and is confined in the Gregg County jail. He has filed a “Petition for Writ of Mandamus” in which he alleges that the State has violated his rights to a fair trial, access to the courts, an examining trial, due process, and equal protection under the law. But instead of requesting mandamus relief, he seeks dismissal of the charge against him. Alternatively, he contends the indictment should be quashed, he should be released on personal recognizance, and the State should be required to show cause as to why the violations were permitted. In substance, Relator seeks his release from custody, which is the proper subject of a petition for pretrial habeas corpus. *See, e.g., In re Lozano*, No. 14-12-00049-CR, 2012 WL 274076, at *1 (Tex. App.–Houston [14th Dist.] Jan. 31, 2012, orig. proceeding) (“[T]o the degree relator seeks release from custody, relator is seeking pretrial habeas corpus relief. . .”). Therefore, we construe his “Petition for Writ of Mandamus” as a petition for pretrial writ of habeas corpus.

The courts of appeals do not have original habeas jurisdiction in criminal law matters. *See* TEX. GOV’T CODE ANN. § 22.221(d) (West 2004) (providing that court of appeals has original jurisdiction to issue writ of habeas corpus in cases where person’s liberty is restrained because person violated order, judgment, or decree entered in civil case). Therefore, this court’s habeas jurisdiction in criminal matters is appellate only. *See id.* Because this is an original

proceeding, we do not have jurisdiction to address the merits of Relator's petition. Accordingly, we *dismiss* the petition.

SAM GRIFFITH
Justice

Opinion delivered March 7, 2012.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

MARCH 7, 2012

NO. 12-11-00362-CR

MICHAEL SAMPSON,
Relator
v.
HON. F. ALFONSO CHARLES,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by **MICHAEL SAMPSON**, who is the relator in Cause No. 41027-B, pending on the docket of the 124th Judicial District Court of Gregg County, Texas. Said petition for writ of mandamus having been filed herein on November 17, 2011, and the same having been duly considered, because it is the opinion of this Court that it lacks jurisdiction, it is therefore **CONSIDERED, ADJUDGED** and **ORDERED** that the said petition for writ of mandamus be, and the same is, hereby **DISMISSED FOR WANT OF JURISDICTION**.

Sam Griffith, Justice.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.