

NO. 12-12-00202-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE: §
DONALD MARGRAVES, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Relator Donald Margraves requests a writ of mandamus compelling the trial court to furnish him a copy of “transcripts and other documents” from his July 28, 2006 trial in cause number 007-1060-05.¹ We dismiss the petition.

In our opinion denying Relator’s previous mandamus petition requesting the same relief, we noted that Relator did not explain his need for the record he requested. *See In re Margraves*, No. 12-11-00305-CR, 2011 WL 6043035, at *1 (Tex. App.–Tyler Nov. 30, 2011, orig. proceeding) (per curiam) (mem. op., not designated for publication). We stated further that such a request after a felony conviction becomes final typically relates to the preparation of a request for postconviction habeas relief. *Id.* And we dismissed the petition after acknowledging that only the Texas Court of Criminal Appeals has jurisdiction over matters related to postconviction relief from an otherwise final felony conviction. *Id.*

In the instant proceeding, Relator informs this court that “[t]his is not an attempt at post-conviction relief, merely a request for trial transcripts and records in Cause No. 007-1060-05.” However, he also alleges that he is “being held in TDCJ on an enhanced sentence with Cause No. 007-1060-05 being one (1) of the enhancements used during punishment, therefore I am entitled to challenge the conviction even if it is expired or discharged.” Thus, it appears that

¹ The respondent is the Honorable Kerry L. Russell, Judge of the 7th Judicial District Court, Smith County, Texas.

Relator ultimately intends to challenge the classification of the conviction for which he is currently imprisoned. Texas Code of Criminal Procedure Article 11.07 provides the exclusive means to challenge a final felony conviction, and we are without jurisdiction to review the merits of Relator's petition. *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. 1991); *see also* TEX. CODE CRIM. PROC. ANN. art. 11.07 (West Supp. 2011). Even if Relator requests the record for another purpose, however, he cites no authority for his contention that he is entitled to a free record relating to a final judgment of conviction. Accordingly, Relator's petition for writ of mandamus is ***dismissed***.

Opinion delivered June 20, 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

JUNE 20, 2012

NO. 12-12-00202-CR

DONALD MARGRAVES,
Relator
v.
HON. KERRY RUSSELL,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by DONALD MARGRAVES, who is the relator in Cause No. 007-1060-05, pending on the docket of the 7th Judicial District Court of Smith County, Texas. Said petition for writ of mandamus having been filed herein on June 6, 2012, and the same having been duly considered, because it is the opinion of this Court that the writ of mandamus should not issue, it is therefore **CONSIDERED, ADJUDGED and ORDERED** that the said petition for writ of mandamus be, and the same is, hereby **DISMISSED**.

By per curiam opinion.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.