

NO. 12-16-00282-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN RE: §
MICHAEL KENNEDY, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Relator Michael Kennedy has filed a pro se petition for writ of prohibition complaining of the trial court's alleged errors and misconduct in trial court cause number 29326, which he contends resulted in his conviction for felony theft. He also filed a motion to recuse the respondent in any habeas or other subsequent proceedings relating to cause number 29326.

Relator's theft conviction has been final for several years. See *Kennedy v. State*, No. 12-11-00041-CR, 2012 WL 3201924, at *8 (Tex. App.—Tyler Aug. 8, 2012, pet. ref'd) (mem. op., not designated for publication) (appeal from punishment hearing after remand); *Kennedy v. State*, No. 12-08-00246-CR, 2009 WL 4829989, at *4 (Tex. App.—Tyler Dec. 16, 2009, no pet.) (mem. op., not designated for publication) (affirming judgment of conviction but remanding for new punishment hearing). Therefore, we do not have jurisdiction to address the complaints he raises in his petition. Moreover, a motion to recuse a trial judge must be filed with the clerk of the court in which the case is pending. TEX. R. CIV. P. 18(a). We have no jurisdiction to rule on such a motion. See TEX. R. CIV. P. 18a(f)(1), (g). Accordingly, Relator's petition for writ of prohibition and his motion to recuse the respondent trial judge are *dismissed for want of jurisdiction*.

Opinion delivered October 31, 2016.

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

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

OCTOBER 31, 2016

NO. 12-16-00282-CR

MICHAEL KENNEDY,
Relator,
V.
HON. MARK A. CALHOON,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of prohibition and motion to recuse judges filed by **MICHAEL KENNEDY**, who is the relator in Cause No. 29326, pending on the docket of the 3rd Judicial District Court of Anderson County, Texas. Said petition for writ of mandamus and motion to recuse judges having been filed herein on October 7, 2016, and the same having been duly considered, because it is the opinion of this Court that this court does not have jurisdiction to issue a writ of prohibition in this proceeding and that it should be dismissed for want of jurisdiction, it is therefore **CONSIDERED, ADJUDGED and ORDERED** that the said petition for writ of mandamus and motion to recuse judges be, and the same are, hereby **dismissed for want of jurisdiction**.

By *per curiam* opinion.

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