

NO. 12-17-00137-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, files this original proceeding, in which he complains of a false judgment against him. This complaint appears related to his criminal conviction in trial court cause number 29326. Additionally, Relator has attached copies of documents regarding grievances filed with the Texas Department of Criminal Justice.

We first note that Relator’s conviction has been final for several years, and cause number 29326 is no longer pending in the trial court. *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) (affirming judgment on punishment); *see also Kennedy v. State*, No. 12–08–00246–CR, 2009 WL 4829989, at *3–4 (Tex. App.–Tyler Dec. 16, 2009, pet. stricken) (mem. op., not designated for publication) (affirming judgment of conviction). Therefore, Relator’s petition for writ of mandamus is an impermissible attempt to collaterally attack his conviction. This Court has no authority over post-conviction criminal complaints.¹ *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991); *see also In re Briscoe*, 230 S.W.3d 196, 196-97

¹ On February 15, 2017, the Texas Court of Criminal Appeals issued an abuse of writ order against Relator, in which it found that he (1) filed seven applications regarding his conviction, (2) “continues to raise issues that have been presented and rejected in previous applications or that should have been presented in previous applications[,]” and (3) “[b]ecause of his repetitive claims, ... Applicant’s claims are barred from review under Article 11.07, § 4, and are waived and abandoned by his abuse of the writ.” *Ex Parte Kennedy*, No. WR-75,385-24 (Tex. Crim. App. Feb. 15, 2017). Relator has continued, unsuccessfully, to seek relief in the court of criminal appeals. *See Ex Parte Kennedy*, No. WR-75,385-26 (Tex. Crim. App. April 12, 2017) (denying motion for leave to file application for writ of habeas corpus).

(Tex. App.—Houston [14th Dist.] 2006, orig. proceeding); *In re McAfee*, 53 S.W.3d 715, 718 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding).

Additionally, to the extent Relator attempts to challenge the TDCJ's grievance proceedings, this Court does not have mandamus jurisdiction over the TDCJ. *See* TEX. GOV'T CODE ANN. § 22.221 (West 2004); *see also In re Hill*, No. 03-14-00798-CV, 2015 WL 134829, at *1 (Tex. App.—Austin Jan. 6, 2015, orig. proceeding) (mem. op.) (dismissing for want of jurisdiction petition for writ of mandamus against TDCJ). Relator has also not shown that mandamus is necessary to enforce our jurisdiction. *See* TEX. GOV'T CODE ANN. § 22.221. For these reasons, we *dismiss* Relator's petition for writ of mandamus for *want of jurisdiction*.

Opinion delivered May 3, 2017.

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

MAY 3, 2017

NO. 12-17-00137-CR

MICHAEL KENNEDY,
Relator
V.

HON. MARK A. CALHOON,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Michael Kennedy; who is the relator in trial court Cause No. 29326 in the 3rd District Court of Anderson County, Texas. Said petition for writ of mandamus having been filed herein on April 27, 2017, 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.**

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