

NO. 12-17-00177-CR
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

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

MEMORANDUM OPINION
PER CURIAM

Relator, Michael A. Kennedy, has filed this original proceeding in which he contends that the trial court participated in a “cover up” and should be reported to the Texas Judicial Conduct Commission, and that both the trial court and this Court should recuse themselves from future proceedings involving Relator. We deny the petition.

We first note that Relator’s petition consists of mere conclusions, with no discussion of applicable legal principles or controlling authority. Consequently, he has failed to provide the “clear and concise argument” and “appropriate citations to authorities” required by Texas Rule of Appellate Procedure 52.3(h). *See* TEX. R. APP. P. 52.3(h). Moreover, Relator’s criminal case is no longer pending either in the trial court or this 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). The applicable rules governing recusal apply to judges in which the case is pending. *See* TEX. R. APP. P. 16.3 (stating that a party may move for recusal of a justice before whom the case is pending); *see also* TEX. R. CIV. P. 18a (a party may seek recusal of a judge who is sitting in the case by filing a

motion with the clerk of the court in which the case is pending). For these reasons, we *deny* Relator's petition for writ of mandamus.¹

Opinion delivered June 7, 2017.

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

(DO NOT PUBLISH)

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).



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

JUNE 7, 2017

NO. 12-17-00177-CR

MICHAEL ALLYN 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 Allyn Kennedy; who is the relator in Cause No. 29326. Said petition for writ of mandamus having been filed herein on June 5, 2017, and the same having been duly considered, because it is the opinion of this Court that the writ should not issue, it is therefore CONSIDERED, ADJUDGED and ORDERED that the said petition for writ of mandamus be, and the same is, hereby **denied**.

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