

**NO. 12-17-00281-CR**  
**IN THE COURT OF APPEALS**  
**TWELFTH COURT OF APPEALS DISTRICT**  
**TYLER, TEXAS**

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

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***MEMORANDUM OPINION***  
***PER CURIAM***

Michael A. Kennedy, acting pro se, has filed this original proceeding in which he complains that the judgment in cause number 29326 is void, no indictment was read at trial, and he had no notice of the charges against him. We deny the writ.

First, Relator has not provided the “clear and concise argument,” “appropriate citations to authorities,” and necessary documents as required by the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 52.3(h), (k), 52.7(a)(1). Second, Relator’s criminal case is no longer pending. 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). We do not have the authority to issue a writ regarding complaints that may only be asserted by a post-conviction habeas corpus proceeding. See *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991); see also *In re McAfee*, 53 S.W.3d 715, 718 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). “To complain about any action, or inaction, of the convicting court, the applicant may seek mandamus relief from the Court of Criminal Appeals.” *In re Briscoe*, 230 S.W.3d 196, 196-97 (Tex. App.—

Houston [14th Dist.] 2006, orig. proceeding).<sup>1</sup> Accordingly, we *deny* Relator’s petition for writ of mandamus.<sup>2</sup>

Opinion delivered September 29, 2017.

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

(DO NOT PUBLISH)

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<sup>1</sup> 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).

<sup>2</sup> Relator recently raised a virtually identical complaint. See *In re Kennedy*, No. 12-17-00269-CR, 2017 WL 4021182 (Tex. App.—Tyler Sept. 13, 2017, orig. proceeding) (mem. op., not designated for publication). The filing of frivolous proceedings wastes scarce judicial and fiscal resources. See *Ex parte Jones*, 97 S.W.3d 586, 588 (Tex. Crim. App. 2003); see also *In re Lucas*, No. 09-14-00106-CR, 2014 WL 1285396 (Tex. App.—Beaumont Mar. 26, 2014, orig. proceeding) (mem. op., not designated for publication).



**COURT OF APPEALS**  
**TWELFTH COURT OF APPEALS DISTRICT OF TEXAS**  
**JUDGMENT**

**SEPTEMBER 29, 2017**

**NO. 12-17-00281-CR**

**IN RE: MICHAEL A. KENNEDY,**  
Relator

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**ORIGINAL PROCEEDING**

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ON THIS DAY came to be heard the petition for writ of mandamus filed by Michael A. Kennedy; who is the relator in Cause No. 29326. Said petition for writ of mandamus having been filed herein on September 15, 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.*