

NO. 12-18-00090-CR
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

IN RE: §
TRACY GIBSON, § *ORIGINAL PROCEEDING*
RELATOR §

MEMORANDUM OPINION
PER CURIAM

Tracy Gibson, a Texas inmate, filed this original proceeding to complain of a 2007 nunc pro tunc judgment.¹ He maintains that neither he nor the Texas Department of Criminal Justice received the judgment until 2012. Relator believes that the nunc pro tunc judgment corrected a judicial error and Respondent attempted to correct a clerical error for which a judgment nunc pro tunc is not an available remedy. He contends that he has no remedy other than mandamus “because of the amount of time that has surpassed[.]”

Article 11.07 is the exclusive procedure available to an applicant seeking relief from a felony judgment imposing a penalty other than death. *See* TEX. CODE CRIM. PROC. ANN. art. 11.07 §§ 1, 5 (West 2005). Courts of appeals do not have authority to issue writs of mandamus regarding complaints that may only be raised 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). Accordingly, we *dismiss* Relator’s petition for writ of mandamus for *want of jurisdiction*.

¹ Respondent is the Honorable Campbell Cox, II, Judge of the 145th District Court in Nacogdoches County, Texas. The Real Party in Interest is the State of Texas.

Opinion delivered April 11, 2018.

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(DO NOT PUBLISH)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

APRIL 11, 2018

NO. 12-18-00090-CR

TRACY GIBSON,
Relator
V.

HON. CAMPBELL COX II,
Respondent

ORIGINAL PROCEEDING

ON THIS DAY came to be heard the petition for writ of mandamus filed by Tracy Gibson; who is the relator in Cause No. F14962-2007, pending on the docket of the 145th Judicial District Court of Nacogdoches County, Texas. Said petition for writ of mandamus having been filed herein on April 5, 2018, 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.