

TEXAS COURT OF APPEALS, FIRST DISTRICT, HOUSTON

Ex parte Warren McGee

No. 01-23-00176-CR (Tex. App.—Houston [1st Dist.] June 16, 2026) (mem. op.) · No. 01-23-00176-CR ·
Decided June 16, 2026

SUMMARY

The Texas Court of Appeals for the First District affirms the denial of Warren McGee’s petition for writ of habeas corpus arising from a contempt proceeding. The court holds that the deficient show-cause order, contempt judgment, and subsequent orders purporting to set them aside were void, but concludes that McGee failed to establish an ongoing restraint or collateral consequences warranting habeas relief. The opinion applies de novo review because the relevant facts were undisputed.

CASE DETAILS

COURT	Texas Court of Appeals, First District, Houston
WRITING FOR THE COURT	David Gunn; Chief Justice Adams; Justice Gunn; Justice Johnson
JURISDICTION	Texas Court of Appeals, First District (Houston)
DECIDED	June 16, 2026
DOCKET	01-23-00176-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a petition for writ of habeas corpus challenging a contempt judgment and related orders.
STANDARD OF REVIEW	Habeas rulings are generally reviewed for abuse of discretion, but de novo review applies to the application of law to undisputed facts when the determination does not depend on witness credibility or demeanor. The habeas applicant bears the burden of proving entitlement to relief by a preponderance of the evidence.
PRECEDENTIAL VALUE	Unpublished and not designated for publication under Tex. R. App. P. 47.2(b).
PARTIES	Warren McGee v. The State of Texas

TOPICS

- habeas corpus
- criminal procedure
- appellate procedure
- mootness
- standard of review

PRACTICE AREAS

criminal procedure

habeas corpus

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the trial court had jurisdiction to dismiss the show cause order and set aside the contempt judgment when the show cause order failed to allege an offense.
2. Whether McGee was entitled to habeas relief based on the void contempt judgment despite the trial court's purported set-aside and dismissal orders.

HOLDINGS

1. The show cause order was void because it failed to allege an offense and provide constitutionally sufficient notice; consequently, the contempt judgment based on that order, the community-supervision orders, and the later orders purporting to set aside the judgment and dismiss the show cause order were also void for lack of jurisdiction.
2. McGee was not entitled to habeas relief because he failed to establish by a preponderance of the evidence that he was unlawfully restrained when the habeas court considered his application, including through actual restraint or cognizable collateral consequences.

KEY QUOTATIONS

“Accordingly, the contempt judgment here is likewise void because it is based on a void show cause order.”
(5)

“The record does not demonstrate collateral consequences from a void judgment of contempt that would rise to the level of restraint.” (10)

“For these reasons, we hold that the denial of habeas corpus relief was appropriate.” (10)

FACTUAL BACKGROUND

A Harris County criminal court at law issued a show cause order requiring McGee to appear and explain why he should not be held in contempt for conduct that allegedly resulted in his arrest, but the order did not identify the alleged crime or conduct. The court then entered a contempt judgment finding that McGee disrupted court proceedings and imposed one year of deferred-adjudication probation with conditions of community supervision. More than sixty days later, the court purported to set aside the contempt judgment and dismiss the show cause order. McGee argued that the orders were void and that the contempt judgment continued to cause restraint and collateral consequences, but he presented no evidence of any actual collateral consequences or other restraint at the habeas hearing.

PROCEDURAL HISTORY

McGee was held in contempt and sentenced to one year of deferred-adjudication probation with conditions of community supervision. He filed a habeas petition challenging the validity of the contempt judgment and show cause order. The trial court later purported to set aside the contempt judgment and dismiss the show cause order,

and the habeas court denied relief while leaving the set-aside order in effect. The Court of Appeals initially dismissed the appeal as moot, but the Texas Court of Criminal Appeals vacated that judgment and remanded for consideration of the trial court's jurisdiction and the merits.

DISPOSITION

affirmed

CASES CITED

- Ex parte Estevez, 713 S.W.3d 913, 918-20 (Tex. Crim. App. 2025)
- Jenkins v. State, 592 S.W.3d 894, 902 (Tex. Crim. App. 2018)
- Ex parte Eugene, No. 01-23-00174-CR, 2025 WL 2446364, at *2-4 (Tex. App.—Houston [1st Dist.] Aug. 26, 2025) (mem. op.)
- Ex parte Nugent, 593 S.W.3d 416, 423 (Tex. App.—Houston [1st Dist.] 2019, no pet.)
- Ex parte Martin, 6 S.W.3d 524, 526 (Tex. Crim. App. 1999)
- Ex parte Gordon, 584 S.W.2d 686, 688 (Tex. 1979) (orig. proceeding)
- Ex parte Davis, 748 S.W.2d 555, 557 (Tex. App.—Houston [1st Dist.] 1988, pet. ref'd)
- Ex parte Kleinman, 721 S.W.3d 400, 404 (Tex. Crim. App. 2025)
- Ex parte Calhoun, 127 Tex. 54, 57, 91 S.W.2d 1047, 1048 (1936) (orig. proceeding)
- Ex parte McGee, No. 01-23-00176-CR, 2024 WL 1314049 (Tex. App.—Houston [1st Dist.] Mar. 28, 2024, pet. granted) (per curiam) (mem. op., not designated for publication)
- Ex parte McGee, No. PD-0517-24, 2024 WL 3594187 (Tex. Crim. App. July 31, 2024) (per curiam) (not designated for publication)