

COURT OF APPEALS OF TEXAS, TWELFTH DISTRICT

In re Dedrick Dean Matthews

No. 12-21-00028-CR (Tex. App.—Tyler Mar. 18, 2021) (per curiam) (mem. op.) · No. 12-21-00028-CR ·

Decided March 18, 2021

SUMMARY

The Twelfth Court of Appeals of Texas denied Dedrick Dean Matthews’s pro se petition for a writ of mandamus seeking to compel a district court to rule on his habeas corpus petition and overturn his felony bail-jumping conviction. The court held that postconviction challenges to a final felony conviction must proceed under Texas Code of Criminal Procedure article 11.07 and that the court of appeals lacked jurisdiction over those claims.

CASE DETAILS

COURT	Court of Appeals of Texas, Twelfth District
WRITING FOR THE COURT	Per curiam; Worthen, C.J.; Hoyle, J.; Neeley, J.
JURISDICTION	Texas
DECIDED	March 18, 2021
DOCKET	12-21-00028-CR
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Relator filed an original proceeding seeking mandamus relief to compel the respondent trial judge to rule on his petition for writ of habeas corpus and to overturn his felony conviction and vacate his sentence.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; not designated for publication and not precedential.

TOPICS

[appellate jurisdiction](#)[state post-conviction relief](#)[post-conviction relief](#)[criminal procedure](#)[remedies](#)

PRACTICE AREAS

[criminal procedure](#)[post-conviction relief](#)[appellate procedure](#)[mandamus](#)

QUESTIONS PRESENTED

1. Whether the Twelfth Court of Appeals had jurisdiction to grant mandamus relief concerning a postconviction challenge to a final felony conviction under Texas Code of Criminal Procedure article 11.07.
2. Whether the court could order the respondent to issue habeas relief overturning Matthews's conviction and vacating his sentence.

HOLDINGS

1. The court of appeals lacked jurisdiction over complaints that could be raised only through a postconviction habeas proceeding under Texas Code of Criminal Procedure article 11.07; only the convicting court and the Texas Court of Criminal Appeals have a role in such challenges.
2. The petition for writ of mandamus should be denied because the requested relief required the court to grant postconviction habeas relief over which it had no jurisdiction.

FACTUAL BACKGROUND

Matthews was convicted of felony bail jumping in 2008, and the conviction was affirmed on direct appeal. He subsequently sought postconviction habeas relief and filed this original proceeding alleging that the respondent trial judge had failed to rule on his habeas petition. The mandamus petition also sought an order overturning the conviction and vacating the sentence.

PROCEDURAL HISTORY

Matthews was convicted of felony bail jumping in 2008. He filed a petition for writ of mandamus in the Twelfth Court of Appeals, asserting that the respondent had failed to rule on his habeas petition. The court denied the mandamus petition because postconviction challenges to a final felony conviction must proceed under Texas Code of Criminal Procedure article 11.07, over which the court of appeals lacked jurisdiction; pending motions were overruled as moot.

DISPOSITION

writ_denied

CASES CITED

- Matthews v. State, No. 06-08-00076-CR, 2008 WL 4949245 (Tex. App.—Texarkana Nov. 21, 2008, no pet.) (mem. op., not designated for publication)
- In re McAfee, 53 S.W.3d 715, 717 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding)
- Ater v. Eighth Court of Appeals, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding)
- In re Brager, No. 12-20-00203-CR, 2020 WL 5552618, at *1–2 (Tex. App.—Tyler Sept. 16, 2020, orig. proceeding) (per curiam) (mem. op., not designated for publication)
- In re Colbert, No. 05-18-00340-CV, 2018 WL 1704149, at *1 (Tex. App.—Dallas Apr. 9, 2018, orig. proceeding) (mem. op.)

- Noble v. State, No. 05-17-01409-CR, 2017 WL 6547083, at *2 (Tex. App.—Dallas Dec. 22, 2017, no pet.) (mem. op., not designated for publication)

OPINION

PER CURIAM.

NO. 12-21-00028-CR IN THE COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT TYLER, TEXAS IN RE: § DEDRICK DEAN MATTHEWS, § ORIGINAL PROCEEDING RELATOR § MEMORANDUM OPINION PER CURIAM Dedrick Dean Matthews, acting pro se, filed this original proceeding to challenge Respondent's failure to rule on his petition for writ of habeas corpus. 1 He seeks a writ of mandamus ordering Respondent to issue a writ of habeas corpus to overturn his conviction and vacate his sentence.

In 2008, Relator was convicted of felony bail jumping. See *Matthews v. State*, No. 06- 08-00076-CR, 2008 WL 4949245 (Tex. App.—Texarkana Nov. 21, 2008, no pet.) (mem. op., not designated for publication) (affirming conviction).

The appropriate method for collaterally attacking his final felony conviction is by a petition for writ of habeas corpus. See TEX. CODE CRIM. PROC. ANN. art. 11.07 (West 2005). This Court has no jurisdiction over complaints that may be raised only by postconviction habeas corpus proceedings brought under Article 11.07. See *id.* arts. 11.05, 11.07 (West 2005).

Only the convicting court and the court of criminal appeals have any role to play in attempts to raise postconviction challenges to final felony convictions. See *In re McAfee*, 53 S.W.3d 715, 717 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding); see also *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding) (in granting writ of mandamus to vacate conviction appellate court found void, court of appeals usurped exclusive authority of court of criminal appeals to grant postconviction relief); see also *In re Brager*, No. 12-20-00203-CR, 2020 WL 5552618, at *1-2 1 Respondent is the Honorable Austin R. Jackson, Judge of the 114th District Court in Smith County, Texas.

The State of Texas is the Real Party in Interest. (Tex. App.—Tyler Sept. 16, 2020, orig. proceeding) (per curiam) (mem. op., not designated for publication) (denying mandamus petition seeking to compel respondent to withdraw allegedly void cumulation order and judgment of felony conviction); *In re Colbert*, No. 05-18-00340-CV, 2018 WL 1704149, at *1 (Tex. App.—Dallas Apr.

9, 2018, orig. proceeding) (mem. op.) (no jurisdiction over mandamus proceeding seeking writ directing trial court to vacate cumulation order from final felony conviction); *Noble v. State*, No. 05-17-01409-CR, 2017 WL 6547083, at *2 (Tex. App.—Dallas Dec. 22, 2017, no pet.) (mem. op., not designated for publication) (to extent appellant sought to challenge purportedly void judgment

by filing post-conviction habeas application, appellate court had no jurisdiction over such proceedings).

Accordingly, we deny Relator's petition for writ of mandamus. All pending motions are overruled as moot. Opinion delivered March 18, 2021. Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J. (DO NOT PUBLISH) 2 COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT OF TEXAS JUDGMENT MARCH 18, 2021 NO. 12-21-00028-CR DEDRICK DEAN MATTHEWS, Relator V. HON. AUSTIN R. JACKSON, Respondent ORIGINAL PROCEEDING ON THIS DAY came to be heard the petition for writ of mandamus filed by Dedrick Dean Matthews; who is the relator in appellate cause number 12-21-00028-CR and the defendant in trial court cause number 114-0921-07, formerly pending on the docket of the 114th Judicial District Court of Smith County, Texas.

Said petition for writ of mandamus having been filed herein on February 23, 2021, 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. 3