

COURT OF APPEALS FOR THE SECOND DISTRICT OF TEXAS AT FORT WORTH

Ex Parte Brian Cole v. the State of Texas

No. 02-25-00367-CR; No. 02-25-00368-CR (Tex. App.—Fort Worth Jan. 8, 2026) (mem. op.) · No. Nos. 02-25-00367-CR and 02-25-00368-CR · Decided January 8, 2026

SUMMARY

The Fort Worth Court of Appeals dismissed Brian Cole's appeals for want of jurisdiction because the trial court had not signed a final judgment or other appealable order addressing his pretrial habeas corpus applications. The court also declined to abate the appeals or compel a ruling because Cole's filings did not satisfy the requirements for a mandamus petition.

CASE DETAILS

COURT	Court of Appeals for the Second District of Texas at Fort Worth
WRITING FOR THE COURT	Per Curiam; Wallach, J.; Sudderth, C.J.; Walker, J.
JURISDICTION	Court of Appeals for the Second District of Texas at Fort Worth
DECIDED	January 8, 2026
DOCKET	Nos. 02-25-00367-CR and 02-25-00368-CR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the trial court's failure to rule on pretrial applications for writs of habeas corpus.
STANDARD OF REVIEW	The court reviewed its own appellate jurisdiction and whether Cole's filings satisfied the procedural requirements for mandamus relief.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; marked Do Not Publish.
PARTIES	Brian Cole v. the State of Texas

TOPICS

- appellate jurisdiction
- writ of certiorari
- post-conviction relief
- criminal procedure
- remedies

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the court of appeals had appellate jurisdiction over appeals from the trial court's failure to rule on pretrial habeas applications when no final judgment or appealable order had been signed.
2. Whether Cole's jurisdictional response could support mandamus relief compelling the trial court to hear and rule on his habeas applications.

HOLDINGS

1. The court of appeals lacked jurisdiction because the trial court had signed neither a final judgment nor an appealable interlocutory order.
2. Cole was not entitled to mandamus relief because his filings did not satisfy the requirements of Texas Rule of Appellate Procedure 52.

KEY QUOTATIONS

“a final judgment or an appealable order is necessary for this court to obtain jurisdiction”

FACTUAL BACKGROUND

Cole had pending pretrial applications for habeas corpus in the trial court. The trial court had not ruled on those applications and had not signed any final judgments or appealable interlocutory orders. Cole sought appellate intervention to compel a hearing and ruling within thirty days.

PROCEDURAL HISTORY

Brian Cole filed two appeals complaining that the 485th District Court had not ruled on his pretrial habeas applications. The court of appeals notified Cole that it appeared to lack jurisdiction because the trial court had signed neither a final judgment nor an appealable interlocutory order. Cole responded with a motion seeking to invoke appellate jurisdiction, abate the appeals, compel a ruling, and obtain mandamus relief, but the court dismissed the appeals for want of jurisdiction and denied any construed request for mandamus relief.

DISPOSITION

dismissed

CASES CITED

- Ahmad v. State, 158 S.W.3d 525, 526 (Tex. App.—Fort Worth 2004, pet. ref'd)
- McCray v. State, No. 02-24-00179-CR, 2024 WL 3195116, at *1 (Tex. App.—Fort Worth June 27, 2024, no pet.) (mem. op., not designated for publication)
- Ex parte Mims, Nos. 02-24-00324-CR, 02-24-00325-CR, 02-24-00326-CR, 2025 WL 647354, at *1 (Tex. App.—Fort Worth Feb. 27, 2025, pet. ref'd) (mem. op., not designated for publication)
- Thomas v. Tex. Dep't of Crim. Just.—Institutional Div., 3 S.W.3d 665, 667 (Tex. App.—Fort Worth 1999, no pet.)
- Ex parte Yezak, No. 03-22-00582-CR, 2022 WL 15526491, at *1 (Tex. App.—Austin Oct. 28, 2022, no pet.) (mem. op., not designated for publication)

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