



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-20-00071-CR

IN RE JERRARD MCGARY

Original Mandamus Proceeding

Before Morriss, C.J., Burgess and Stevens, JJ.
Memorandum Opinion by Justice Burgess

MEMORANDUM OPINION

Jerrard McGary, proceeding pro se, has petitioned this Court for a writ of mandamus requiring the Honorable Bill Miller to rule on his Special Visitation Brief and to order his immediate release from prison. We will deny his petition because an application for writ of habeas corpus “is the exclusive post-conviction judicial remedy available when the conviction is final and the applicant is confined by virtue of his or her felony conviction.” *In re Harrison*, 187 S.W.3d 199, 200 (Tex. App.—Texarkana 2006, orig. proceeding) (citing *Ex parte Adams*, 768 S.W.2d 281, 287 (Tex. Crim. App. 1989) (orig. proceeding); *McBride v. State*, 114 S.W.3d 556, 557 (Tex. App.—Austin 2002, no pet.)).

McGary was convicted of the murder of his wife in 1997, and he was sentenced to seventy-five years’ imprisonment. McGary alleges that he has accepted an offer from the “Prosecutor” to “Discharge, Settle, Adjust and close account #96-F-377-5”¹ by “accept[ing] for value all instruments, contract, presentment and orders for the value of fifty-five million United States Dollars (\$55,000,000.00) throughby [sic] ‘Private Discharging And Indemnity Bond[’] #9590 . . . Face Value \$300,000,000.00 (Three Hundred Million) (USD)” and that the “Prosecutor . . . failed to bring forth proof of claim . . . and . . . stipulated to the facts as they operate in favor of Defendant.” Therefore, he contends that he “satisfied the Debt that was owed to Account #96-F-377-5,” and Respondent has failed to immediately release him from the unlawful confinement.

“Under Texas law, the sole method for a collateral attack on a felony conviction is through an application for a writ of habeas corpus.” *Harrison*, 187 S.W.3d at 200. “The purpose of the

¹McGary’s murder conviction was entered in the trial court’s cause number 96-F-377-5.

writ of habeas corpus is . . . to determine the lawfulness of confinement.” *Ex parte Adams*, 768 S.W.2d 281, 287 (Tex. Crim. App. 1989) (orig. proceeding). McGary seeks a determination of the lawfulness of his confinement and a discharge from the same. He, therefore, must follow the procedure for a post-felony-conviction application for writ of habeas corpus set forth in Article 11.07 of the Texas Code of Criminal Procedure. *See Harrison*, 187 S.W.3d at 199–200; *see also* TEX. CODE CRIM. PROC. ANN. art. 11.07, §§ 3(a), 5 (stating that “[a]fter [a final felony] conviction . . . the procedure outlined in this Act shall be exclusive and any other proceeding shall be void and of no force and effect in discharging the prisoner”).

Because a writ of habeas corpus is McGary’s exclusive remedy to determine the lawfulness of, and a discharge from, his confinement, he is not entitled to a writ of mandamus. *See Harrison*, 187 S.W.3d at 199–200. As a result, we deny McGary’s petition for a writ of mandamus.

Ralph K. Burgess
Justice

Date Submitted: June 22, 2020

Date Decided: June 23, 2020

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