

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-20-00337-CV

In re Kevin D. Wilkins II

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relator Kevin D. Wilkins II, an inmate currently being held in the Travis County Jail while awaiting transfer to a state jail facility, has filed a pro se petition for writ of mandamus. Wilkins asserts that because the facilities operated by the institutional division of the Texas Department of Criminal Justice (TDCJ) have been closed due to COVID-19, he has not been transferred to a state jail facility, despite being sentenced to state jail. Wilkins requests that this Court compel the respondents, Governor Greg Abbott; the Honorable Ken Paxton, Attorney General of the State of Texas; Chief Sheriff Sally Hernandez, Travis County Jail Administration; and the Comptroller of the State Jail Felony Administration Department, to comply with the statute requiring inmates who have been sentenced to state jail to be timely transferred to the institutional division of TDCJ from county jail, *see* Texas Government Code § 499.121, or alternatively, to award inmates sentenced to state jail but confined to county jail the same ability to earn diligent-participation time credit that they would have if they were transferred to the institutional division.

We have no jurisdiction to grant Wilkins’s requested relief. By statute, this Court has no authority to issue a writ of mandamus against these State officials unless required to enforce our jurisdiction. *See* Tex. Gov’t Code § 22.221 (establishing that intermediate appellate courts have jurisdiction to issue writs of mandamus only against certain types of judges and to enforce appellate courts’ own jurisdiction); *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding). Wilkins has not demonstrated that the requested relief is necessary to enforce our appellate jurisdiction. *See In re Roberson*, No. 13-15-00598-CV, 2015 WL 9285850, at *2 (Tex. App.—Corpus Christi—Edinburg Dec. 21, 2015, orig. proceeding) (mem. op.) (per curiam) (dismissing petition seeking to compel prison officials to comply with state laws). Although Wilkins states that he brings his petition for writ of mandamus pursuant to Government Code Section 499.121, which states that “[t]he duties provided by this subchapter may be enforced by an action in mandamus,” Section 499.121 does not expand this Court’s mandamus jurisdiction. *See* Tex. Gov’t Code § 499.121(d); *see also In re Nolo Press/Folk Law, Inc.*, 991 S.W.2d 768, 775 (Tex. 1999). “Generally, the district court has exclusive original jurisdiction over mandamus proceedings except when the Constitution or a statute confers original jurisdiction on another tribunal.” *In re Nolo Press*, 991 S.W.2d at 775 (citing Tex. Const art. V, § 8; Tex. Gov’t Code § 24.007; *AT&T Consultants v. Sharp*, 904 S.W.2d 668, 671-672 (Tex. 1995)). Accordingly, we dismiss Wilkins’s petition for writ of mandamus for want of jurisdiction.

Gisela D. Triana, Justice

Before Justices Goodwin, Triana, and Smith

Filed: July 3, 2020