

Texas Court of Appeals lacks original jurisdiction to issue a writ of habeas corpus seeking relief from his conviction for aggravated robbery because it is not a civil case. [In re D.A.B.](14-3-4)

On June 11, 2014, the Tyler Court of Appeals dismissed juvenile's writ of habeas corpus seeking relief from conviction for aggravated robbery because the court's original jurisdiction to issue a writ of habeas corpus exists only when it appears that a person is restrained in his liberty "by virtue of an order, process, or commitment issued by a court or judge because of the violation of an order, judgment, or decree previously made, rendered, or entered by the court or judge in a civil case."

¶ 14-3-4. **In re D.A.B.**, MEMORANDUM, No. 12—14—00147—CV, 2014 WL 2609722 (Tex.App.—Tyler, 6/11/14).

Facts: On July 15, 2008, D.A.B., a juvenile, was detained on a charge of aggravated robbery. He was subsequently prosecuted and convicted for the offense and sent to the Texas Youth Commission. Later, he was transferred to the Texas Department of Criminal Justice—Institutional Division, where he is presently incarcerated.

On February 7, 2013, D.A.B. filed a petition for writ of habeas corpus in the juvenile court alleging new evidence of actual innocence and prosecutorial misconduct. The juvenile court conducted an evidentiary hearing, and eleven months later, forwarded findings of fact and conclusions of law to the Texas Court of Criminal Appeals. That court dismissed the writ for want of jurisdiction. The juvenile court then directed the Angelina County District Clerk to forward the court's findings of fact and conclusions of law, along with the reporter's record of the evidentiary hearing, to the Texas Supreme Court. According to D.A.B., that court is "holding the Writ filed [on] April 12, 2014]" pending this court's disposition in the instant proceeding.

Held: Dismissed for want of jurisdiction

Memorandum Opinion: A person confined pursuant to an adjudication and disposition in juvenile court is entitled to seek habeas corpus relief in the appropriate court. See TEX. FAM.CODE ANN. § 56.01(o) (West 2014). However, the circumstances under which this court has original habeas jurisdiction are narrow. Specifically, this court has original jurisdiction to issue a writ of habeas corpus only when it appears that a person is restrained in his liberty "by virtue of an order, process, or commitment issued by a court or judge because of the violation of an order, judgment, or decree previously made, rendered, or entered by the court or judge in a civil case." See TEX. GOV'T CODE ANN. § 22.221(d) (West 2004).

We do, however, have jurisdiction to review, by direct appeal, a trial court's denial of a juvenile's postconviction petition for writ of habeas corpus. See generally, e.g., *In re M.P.A.*, No. 03–08–00337–CV, 2010 WL 2789649 (Tex.App.-Austin July 14, 2010) (mem.op.), rev'd in part and remanded on other grounds, 364 S.W.3d 277 (Tex.2012); *In re J.W.A.*, No. 03–03–00464–

CV, 2005 WL 2574024 (Tex.App.-Austin Oct. 13, 2005, no pet.). D.A.B. did not file a notice of appeal in this case. Moreover, D.A.B.'s habeas petition does not meet the requirements for a notice of appeal. See TEX.R.APP. P. 25.1. But even if we could construe the petition as a notice of appeal, we cannot determine from the documents provided that an appealable order, such as an order denying habeas relief, has been signed. See TEX.R.APP. P. 25.1(d)(2) (requiring that notice of appeal state date of judgment or order appealed from).

Conclusion: This court lacks original jurisdiction to issue a writ of habeas corpus under the facts presented here. Moreover, D.A.B.'s habeas petition cannot be construed as a notice of appeal. Accordingly, we dismiss D.A.B.'s petition for writ of habeas corpus. See TEX. GOV'T CODE ANN. § 22.221(d).