the Jasuta / Schulman report

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TIBA's Case of the Week

El Paso Court of Appeals

Case Name: ***In re Jaime Luevano***

- **NATURE OF CASE**: Mandamus Proceeding
- **COUNTY**: El Paso
- **C/A CASE No**. 08-26-00189-CR
- **DATE OF OPINION**: June 8, 2026 **OPINION**: Justice Gina Palafox
- **DISPOSITION**: Petition Dismissed
- **TRIAL COURT**: 34th D/C
- **LAWYERS**: Relator *Pro Se*

[§§ **519.02 Appellate Procedure / Dismissal of Action or Authority to Act / Jurisdictional Questions**]: Relator is serving a life sentence for the 2010 commission of burglary of a habitation with intent to commit an aggravated sexual assault. His conviction was affirmed in an unpublished opinion ***Luevano v. State***, No. 08-10-00154-CR (Tex.App. - El Paso; 05/23/2012). In this mandamus proceeding, which was initiated by the filing of what Relator styled as "Pre-Writ (11.07)," Relator sought an Order from the Court of Appeals requiring "Texas Wesleyan University School of Law . . . to review evidence and appoint counsel to pursue a post conviction writ of habeas corpus."

Holding: An Appellate court may issue a writ of mandamus "against a judge of a district, statutory county, statutory probate county, or county court in the Court of Appeals district," or when "necessary to enforce" our jurisdiction. Tex. Gov't Code § 22.221(a), (b). Because we have no jurisdiction to issue a writ of mandamus against a law school, and Luevano has not alleged that a writ of mandamus is necessary to enforce our jurisdiction, we dismiss the petition for want of jurisdiction.

Sidebars

[**Stanley Schneider**] It must have been a boring week in the law as this case was correctly decided as the Court of Appeals has no jurisdiction to order a law school or any other entity to do any discretionary act. Additionally, mandamus would not lie against a judge to appoint counsel in a *habeas* case.

[**Michael Falkenberg**] I am gratified when appellate courts make the small effort necessary to explain their decisions to pro se litigants. This shows that they received this typically

chaotic pleading and correctly construed it as a mandamus petition based on the nature of the relief the prisoner was asking for. Ultimately, unless they are issuing a writ in protection of their jurisdiction, appellate courts are statutorily limited to issuing mandamus only against lower court judges. The prisoner here isn't only complaining about (probably) the defunct Texas Wesleyan School of law, he also makes a more serious allegation against the district clerk (not providing a cost estimate for his records). But no matter what, he isn't blaming a judge for anything. So the court's order isn't wrong, and it gives him some rationale for denying relief. They could have been very formalistic and poured the prisoner out for not complying with all the Rules of Appellate Procedure, but that is of no use to anyone apart from the court, especially anyone on the Coffield Unit. I wish more courts would do this sort of thing. I expect the same filing at the Court of Criminal Appeals would have resulted in an abatement for a response from the District Clerk, assuming the issue hadn't been raised before.

[**Joseph Varela**] The first issue is whether the COA correctly construed the filing as a petition for mandamus relief. It was entitled "Pre-Writ (11.07) to Compel . . . . " and it appears from the opinion that the Court construed the petition by the relief it requested rather than how it was entitled, see Hernandez v. State, 767 S.W.2d 902, 904 (Tex. App.-Corpus Christi-Edinburg 1989), aff'd , 800 S.W.2d 523 (Tex. Crim. App. 1990) (courts construe a pleading based on the relief sought rather than the title). Since the petition sought to compel somebody to do something, the COA correctly construed it as a petition for mandamus relief, rather than as a collateral attack. *** Second, there is a potential problem with the party sought to be compelled. Texas Weslayan University School of Law is now Texas A&M University School of Law. The COA did not need to reach this issue as it disposed of the petition on other grounds. *** Third, as the COA points out, the real problem is that it lacked jurisdiction, and that's what the opinion turns on. Lacking jurisdiction, the COA had no option but to dismiss. *** Finally, I'm not taking it personally, but I'm a bit perplexed that Luevano would turn to the Aggies first, and not the University of Texas. But I think the result would have been the same regardless of which law school was in Luevano's sights.

[John G. Jasuta] Given the applicant's very lengthy history of seeking mandamus relief from this very Court in various matters I think the Court erred by doing anything other than dismissal without any type of order. To give him any voice is a mistake.

[David A. Schulman] Certainly, a Court of Appeals lacks the authority to Order a law school which is not already involved in litigation in their jurisdictional district to do anything. My first thought, however, we that there hasn't been a "Texas Wesleyan School of Law since 2013, when the Wesleyans sold out to Texas A&M University. That notwithstanding, I find it strange that, even after filing literally dozens of pleadings in dozens of cases over the last +/- 23 years, this fellow isn't even as sharp as your average *in propia personam* litigant.