



HUNT COUNTY COURTS AT LAW NO. 1 AND NO. 2

2507 LEE STREET, GREENVILLE TX 75401

TIMOTHY S. LINDEN
JUDGE, COUNTY COURT AT LAW NO. 1
4TH FLOOR COUNTY COURTHOUSE

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JUDGE, COUNTY COURT AT LAW NO. 2
2ND FLOOR COUNTY COURTHOUSE

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PETITIONS FOR WRITS OF HABEAS CORPUS IN UNFILED MISDEMEANOR CASES PURSUANT TO § 17.151

Dear Hunt County Criminal Defense Attorneys:

To be entitled to relief, a habeas corpus applicant must establish: (1) he or she is either confined or restrained unlawfully at the time the writ application was filed, *and* (2) has no other adequate remedy. *Gibson v. State*, 921 S.W.2d 747 (Tex.App. El Paso 1996); *Ex Parte Groves*, 571 S.W.2d 888 (Tex.Crim.App.1978)

Concerning unfiled misdemeanor criminal cases, please be advised that a petition for a writ of habeas corpus which seeks relief pursuant to Article 17.151 that has not first unsuccessfully pursued relief pursuant to Article 17.151 from the magistrate who has jurisdiction over the case will be denied on the basis that another adequate remedy is available and has not been pursued.

Additionally, please ensure that your petition for habeas relief complies with Article 11.14. If it is clear from the petition that the applicant is not entitled to relief, the court has the discretion to not issue a writ. *Fowler v Hooey*, 573 S.W.2d 241 (Tex.Crim. App 1978 (overruled on other grounds by *Ex parte Spaulding*, 612 S.W.2d 509 (Tex. Crim. App. 1981)

Therefore, if you file a Writ of Habeas Corpus in an unfiled misdemeanor case seeking relief pursuant to Article 17.151, you should state in your petition that you have previously sought relief pursuant to Article 17.151 from the magistrate court, identify the magistrate court from whom said relief was sought and that the relief was denied by the magistrate court. Failure to do so may result in the Court's denial to issue the Writ.

Finally, to have your writ set and heard by the Court, you should submit a proposed order issuing the writ and setting hearing, not a criminal *Request for Court Setting* form.

Judge Timothy S. Linden
Hunt County Court at Law No. 1

Judge Joel D. Littlefield
Hunt County Court at Law No. 2

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