



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-15-00101-CV

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IN RE LUIS S. LAGAITE, JR., RELATOR

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OPINION ON ORIGINAL PROCEEDING FOR WRIT OF MANDAMUS

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April 9, 2015

**MEMORANDUM OPINION**

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Pending before the court is the petition for writ of mandamus filed by Luis S. Lagaite, Jr. He asks us to order Respondent, “William Stephen, in his individual and official capacity as executive director of T.D.C.” to “immediately assigned [sic] relator to a permanent ID. Unit, and the return of all his legal and personal property, so he can perfect an appeal.” We deny the petition.

We cannot normally issue a writ of mandamus against anyone other than a judge. TEX. GOV'T CODE ANN. § 22.221 (West 2004). There exists an exception to that limitation, however. It encompasses instances wherein mandamus is necessary to protect our appellate jurisdiction. *In re Washington*, 7 S.W.3d 181, 182 (Tex. App.—Houston [1st Dist.] 1999, no pet.). But, before it can be said that we are protecting our

appellate jurisdiction, there must be an appeal pending wherein the relator is a party. *Id.* Lagaite's complaint does not relate to a pending appeal or to our jurisdiction over a pending appeal. Nor has he appended a copy of any judgment susceptible to appeal. More importantly, we read his application as simply his complaint about having a temporary prison assignment and as a means of securing a permanent prison assignment. We have no jurisdiction to require the executive director of the "T.D.C." to make such an assignment.

Accordingly, the petition for mandamus is denied.

Per Curiam