

Opinion issued October 28, 2014



In The
Court of Appeals
For The
First District of Texas

NO. 01-14-00839-CR

IN RE JOHN JAMES SMITH, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, John James Smith, has filed a *pro se* petition for writ of mandamus on October 14, 2014, seeking to compel the respondent, his former appointed appellate counsel, Tony Aninao, to file an affidavit in response to the trial court's August 4, 2014 order in his pending application for a post-conviction writ of habeas corpus, filed under Texas Code of Criminal Procedure Article 11.07.¹

¹ The underlying case is *Ex Parte John James Smith*, Cause No. 1234109-A, in the 184th Judicial District Court of Harris County, Texas, the Honorable

However, we do not have jurisdiction to issue a writ of mandamus directed at relator's former appellate counsel because the requested writ neither is against a judge nor is necessary to enforce our appellate jurisdiction. *See* TEX. GOV'T CODE ANN. §§ 22.221(a), (b) (West 2004).

Accordingly, relator's petition for writ of mandamus is **dismissed** for want of jurisdiction.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Jennings and Keyes.

Do not publish. TEX. R. APP. P. 47.2(b).

Jan Krockner presiding. The respondent, Tony Aninao, was appointed as relator's counsel for his appeal of his first-degree felony aggravated robbery with a deadly weapon conviction for which we affirmed the judgment on May 30, 2013, and issued our mandate on August 9, 2013. *See John James Smith v. The State of Texas*, No. 01-11-01114-CR, 2013 WL 2388047, at *1, 6 (Tex. App.—Houston [1st Dist.] May 30, 2013, no pet.) (mem. op., not designated for publication).