

Petition for Writ of Mandamus Denied and Memorandum Opinion filed September 8, 2011.



In The

Fourteenth Court of Appeals

NO. 14-11-00723-CV

IN RE JOHNNY Q. CLAWSON, JR., Relator

ORIGINAL PROCEEDING
WRIT OF MANDAMUS
333rd District Court
Harris County, Texas
Trial Court Cause No. 2009-59608

MEMORANDUM OPINION

On August 24, 2011, relator, Johnny Q. Clawson, a *pro se* inmate, filed a petition for writ of mandamus in this court. *See* Tex. Gov't Code § 22.221; *see also* Tex. R. App. P. 52. Relator complains that respondent, the Honorable Joseph J. "Tad" Halbach, Jr., presiding judge of the 333rd District Court of Harris County, has not ruled on the contest to his pauper's affidavit. He asserts that he is indigent and unable to pay the costs required to prosecute his appeal.

Relator's appeal is pending under this court's appellate case number 14-11-00532-CV, styled *Johnny Q. Clawson v. Crosby Independent School District*. On

August 8, 2011, the Harris County District Clerk advised this court that the trial court has denied relator's request to proceed as a pauper.

Mandamus is an extraordinary remedy that will issue only if (1) the trial court clearly abused its discretion and (2) the party requesting mandamus relief has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004). The Texas Supreme Court has determined that, under the amended rules of appellate procedure, an indigent party may obtain the record pertaining to the trial court's ruling sustaining the contest to his affidavit of indigence and challenge that ruling as part of his appeal, and mandamus is not the appropriate remedy. *See In re Arroyo*, 988 S.W.2d 737, 738-39 (Tex. 1998). Therefore, relator has an adequate remedy through his pending appeal.

Accordingly, we deny relator's petition for writ of mandamus.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Anderson and Christopher.