



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 02-15-00273-CV**

IN RE DONALD JASON MCCOY

RELATOR

-----  
ORIGINAL PROCEEDING  
TRIAL COURT NO. 231-538847-13  
-----

**MEMORANDUM OPINION<sup>1</sup>**  
-----

The court has considered relator's petition for writ of mandamus and motion for emergency relief and is of the opinion that all relief should be denied. Relator Donald Jason McCoy argues that the trial court abused its discretion by ordering him to pay attorney's fees because it "did not condition the award of appellate attorney's fees upon [his ex-wife] meeting [her] burden of proof." However, no reporter's record was made of the hearing at which the trial court entertained the motion seeking the fees, and without a reporter's record, we have

---

<sup>1</sup>See Tex. R. App. P. 47.4, 52.8(d).

no way to review whether McCoy's ex-wife met her burden of proof for an award of attorney's fees. Although we deny McCoy's requested relief in this mandamus proceeding, our decision should not affect whether McCoy may alternatively seek to challenge the propriety of the attorney's fees in his pending appeal from the trial court's final decree of divorce.

Accordingly, relator's petition for writ of mandamus and motion for emergency relief are denied.

PER CURIAM

PANEL: MEIER, DAUPHINOT and WALKER, JJ.

WALKER, J., filed a dissenting opinion.

DELIVERED: August 28, 2015