

NO. 07-06-0359-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
OCTOBER 12, 2006

IN RE R. WAYNE JOHNSON, RELATOR

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

ON MOTION TO DISMISS

Relator R. Wayne Johnson filed this original proceeding seeking a writ of mandamus directed to respondent, the Honorable John B. Board. We determined relator had failed to remit the required filing fee or submit an affidavit of inability to pay costs in compliance with Rule of Appellate Procedure 20.1(b). In a September 15, 2006 order we directed relator to pay the fee or submit an affidavit meeting the requirements of Rule 20.1(b) within 15 days. On September 29, 2006 the court extended the deadline to October 6, 2006, and reminded relator the failure to comply would make his petition subject to dismissal.

Within the time set by the court, relator filed a motion to withdraw his petition for writ of mandamus “without prejudice.” Finding relator does not seek to prosecute his petition, and having yet taken no other action with respect to relator’s compliance with our

September 15 order, we grant relator's motion and dismiss the proceeding. Tex. R. App. P. 42.1, 5, 2.

Per Curiam