

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-99-00421-CV

In re John C. Smith

ORIGINAL PROCEEDING FROM COMAL COUNTY

MEMORANDUM OPINION

This Court abated this original proceeding in 1999 after receiving notice of a related bankruptcy. *See* Tex. R. App. P. 8.1, 8.2. After the abatement, no party to this appeal sought reinstatement. *See id.* R. 8.3. We have now been informed that the bankruptcy case related to this appeal is closed and, therefore, have reinstated the appeal.

On October 27, 2016, the Clerk of this Court sent notice to the parties that this proceeding would be dismissed for want of prosecution unless a status report was filed on or before November 7, 2016, that provided reason to retain this appeal. *See id.* R. 42.3(b). On November 7, 2016, real party in interest Michael P. Flume Construction Company, Inc., filed a response asserting that this cause has become moot because the trial court has dismissed the underlying case for want of prosecution and requesting that this Court dismiss this cause for want of jurisdiction. On November 18, 2016, relator filed an unopposed motion to dismiss this proceeding as moot. Accordingly, we grant relator's motion and dismiss this petition for writ of mandamus for want of jurisdiction. *See Heckman v. Williamson Cnty.*, 369 S.W.3d 137, 162 (Tex. 2012) (stating that if case is or becomes moot, court must dismiss case for want of jurisdiction.)

Melissa Goodwin, Justice

Before Justices Puryear, Pemberton, and Goodwin

Filed: March 15, 2017