Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-15-00441-CR

IN RE Roy Louis **SMITHWICK** Jr.

Original Mandamus Proceeding[1]

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice
Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: August 5, 2015

PETITION FOR WRIT OF MANDAMUS DENIED

On July 16, 2015, relator filed a pro se petition for writ of mandamus complaining of the trial court's failure to order the district attorney's office to investigate relator's claims of criminal misconduct by the prosecutor and an expert witness involved in his 1992 murder conviction.[2] The court has considered relator's petition and is of the opinion that relator is not entitled to the relief sought. In a criminal case mandamus relief is authorized only if the relator establishes "(1) he has no other adequate legal remedy; and (2) under the relevant facts and law, the act sought to be compelled is purely ministerial." *See State ex rel. Hill v. Court of Appeals for Fifth Dist.*, 34 S.W.3d 924, 927 (Tex. Crim. App. 2001) (orig. proceeding); *In re Reed*, 137 S.W.3d 676, 678

[1] This proceeding arises out of Cause No. 1992CRA00041-D1, styled *The State of Texas v. Roy L. Smithwick Jr.*, pending in the 49th Judicial District Court, Webb County, Texas, the Honorable Jose A. Lopez presiding.
[2] This court affirmed relator's conviction on his direct appeal in *Smithwick v. State*, No. 04-92-00520-CR, 1995 WL 540279, at *8 (Tex. App.—San Antonio Sept. 13, 1995, no pet.).

(Tex. App.—San Antonio 2004, orig. proceeding). Accordingly, the petition for writ of mandamus is denied. *See* TEX. R. APP. P. 52.8(a).

PER CURIAM

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