



IN THE  
TENTH COURT OF APPEALS

---

No. 10-13-00334-CV

IN RE ASI AVIATION, LLC

---

Original Proceeding

---

MEMORANDUM OPINION<sup>1</sup>

---

We summarily deny the petition for writ of mandamus of relator ASI Aviation, LLC to the extent that it requests mandamus relief for itself. *See* TEX. R. APP. P. 52.8(d).

With respect to ASI's request for mandamus relief from discovery on behalf of Justin Smith, a nonparty, that request is denied because Smith could have sought relief for himself in the trial court and could have been a party to this original proceeding. *See Environmental Procedures, Inc. v. Guidry*, 282 S.W.3d 602, 635 n.54 (Tex. App.—Houston [14th Dist.] 2009, pet. denied) ("A nonparty may seek relief from a trial court regarding discovery sought from the nonparty by parties in a case pending in the trial court.")

---

<sup>1</sup> The background of this proceeding is well known to the parties; thus, we do not recite them here in detail. Because the dispositive legal issues are settled in law, we issue this memorandum opinion. TEX. R. APP. P. 47.2(a), 47.4.

(citing TEX. R. CIV. P. 192.6(a)); *In re Shell E & P, Inc.*, 179 S.W.3d 125, 129 (Tex. App.—San Antonio 2005, orig. proceeding) (holding that nonparty had right and standing to object in trial court and granting mandamus relief for nonparty). ASI has not provided any authority that it has standing to seek mandamus relief on Smith's behalf.

We vacate our stay of the September 12, 2013 order on the motion to compel of CPG Leasing, LLC, the real party in interest.<sup>2</sup> CPG Leasing's request for sanctions is denied.

REX D. DAVIS  
Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins

(Chief Justice Gray would dismiss the petition because ASI has no standing to seek relief from discovery sought from Smith. A separate opinion will not issue.)

Petition denied

Opinion delivered and filed January 9, 2014

[OT06]

THIS IS TO CERTIFY THAT THIS IS A  
TRUE AND CORRECT COPY.  
TESTED AND CORRECTED BY  
SHARON HOLMES, CLERK  
BY Nita Whitener  
DEPUTY

<sup>2</sup> CPG filed a motion for reconsideration of our stay order. Given our disposition, the motion for reconsideration is dismissed as moot.

BE IT REMEMBERED:

THAT at the term of the Honorable Court of Appeals for the Tenth District of the State of Texas, begun and holden at Waco on the 1st day of January, 2014, present Chief Justice TOM GRAY and Justices REX D. DAVIS and AL SCOGGINS

In the cause

No. 10-13-00334-CV

IN RE ASI AVIATION, LLC

Original Proceeding

the following Judgment was entered on the 9<sup>th</sup> day of January, 2014:

“Came on to be heard on the original Petition for Writ of Mandamus filed in this Court on September 30, 2013, by Relator ASI Aviation, LLC, and the same having been considered, because it is the opinion of the Court that the Petition for Writ of Mandamus should be denied; it is therefore ordered, adjudged and decreed that the Petition for Writ of Mandamus be, and hereby is, denied. It is further ordered that the Relator ASI Aviation, LLC, pay all costs in this behalf expended and incurred in this Court.”

I, SHARRI ROESSLER, Clerk of the Court of Appeals for the Tenth District of Texas, at the City of Waco, hereby certify that the foregoing is a true copy of the Judgment entered herein by this Court in the above entitled and numbered cause as appears of record in Minute Book 13, Page 10.

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of said Court at Waco, this 9<sup>th</sup> day of January, A.D. 2014.

SHARRI ROESSLER, Clerk

By: Nita Whitener  
Nita Whitener, Deputy Clerk