

***How to Locate a Writ or Petition History and Create a GREENBOOK Citation for Civil Appellate Cases in Texas***

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**I. What is a Writ or Petition History and Why Does it Matter**

The petition (and, before 1997, the writ) history of a case identifies the action (or inaction) taken by the Texas Supreme Court on a particular Court of Appeals' opinion.<sup>1</sup> Moreover, and unique to *civil* cases<sup>2</sup> in Texas, the petition history of a particular case can indicate the **weight** of authority that a particular appellate opinion has. In this way, an appellate decision that the Texas Supreme Court has determined is correct—both in terms of its result and application of the law (petition refused)—has more weight than an appellate decision that simply presents no error requiring reversal (petition denied).<sup>3</sup> In fact, when the Texas Supreme Court refuses to hear a Texas civil Court of Appeals' petition, “[t]he court of appeals’ opinion in the case has the same precedential value as an opinion of the Supreme Court.”<sup>4</sup> In other words, the writ or petition history of a civil case not only shows how the appeal was handled but also, in some instances, signals the weight of the appellate opinion.

**II. How to a Find Writ or Petition History**

Westlaw’s case history tab is one of the online tools you can use to locate a Texas case’s writ or petition history. Below are step-by-step instructions for locating subsequent case histories using Westlaw. In addition to Westlaw, you can use LexisAdvance’s Shepard’s report to find a case’s subsequent history or even find the information on the Texas Judicial

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<sup>1</sup> THE GREENBOOK: TEXAS RULES OF FORM (Tex. Law Rev. Ass’n, 13th ed. 2015).

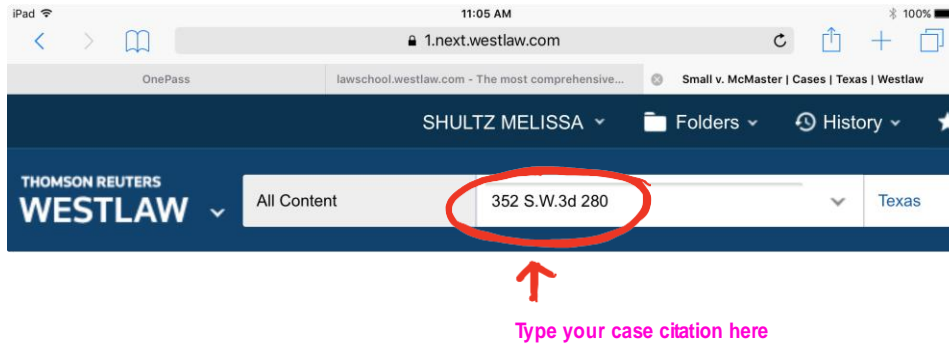
<sup>2</sup> The Texas Court of Criminal Appeals’ (the highest criminal court in Texas) decision on a petition “do[es] not indicate the [Texas Court of Criminal Appeal’s] approval or disapproval of the lower court decision and do not have any precedential effect.” Andrew T. Solomon, *The Texas Supreme Court’s Petition System: A System in Need of Reexamination*, 53 S. TEX. L. REV. 698 (2012).

<sup>3</sup> Katy Stein Badeaux, *Texas Subsequent History Table Ceases Publication*, Nota Bene Blogspot (Oct. 23, 2014), <http://notabeneuh.blogspot.com/2014/10/texas-subsequent-history-table-ceases.html>.

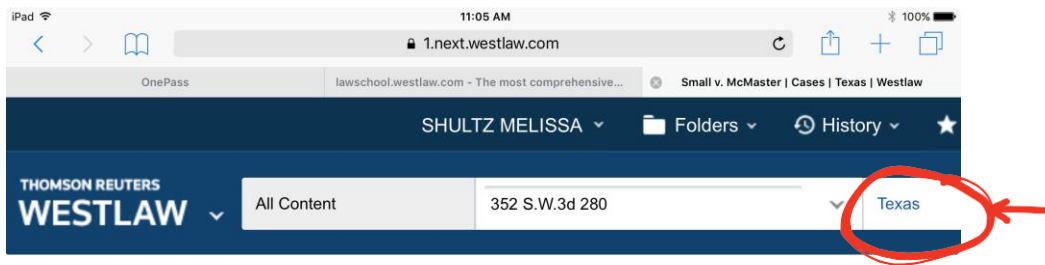
<sup>4</sup> Soloman, *supra* note 2.

Branch's website ([www.txcourts.gov](http://www.txcourts.gov)) by reviewing the weekly orders from the Texas Supreme Court (available from 1997–present).

**Step 1:** Type the citation for the case for which you need the writ or petition history into the search box.



**Step 2:** Make sure Westlaw is set to search only Texas state cases.



Make sure Westlaw is only perusing Texas state case law

**Step 3:** Once you pull up the correct case, click on the "history" tab of the Westlaw toolbar.

A screenshot of the Westlaw case page for "Small v. McMaster". The "History (2)" tab is selected and circled in red. Below the toolbar, the case details are displayed, including the citation "352 S.W.3d 280", the court "Court of Appeals of Texas, Houston (14th Dist.)", and the parties "John W. SMALL, Aiskel Alvarez Small, Robert Alan 'Bob' Small, Small Interests, Ltd., Star Instruments, Inc. and Small Family Interests, Inc., Appellants, v. Murriah S. McMASTER, Appellee." The synopsis section is also visible.

**Step 4:** Select the case citation for which you want to review the writ or petition history.

The screenshot shows the Westlaw interface for the case **Small v. McMaster**, 352 S.W.3d 280 (Tex.App.-Hous. (14 Dist.), Oct. 20, 2011). The 'History (2)' tab is active, displaying a list of events. The first event, '1. Small v. McMaster', is highlighted with a red circle and a red arrow pointing to it. A vertical bar on the right side of the interface is labeled 'Intermediate Court' and 'Trial Court'. A diagram shows a flow from the selected event to a detailed view of the case history, which includes the citation and a list of subsequent events: 'rehearing overruled Nov 16, 2011', 'review denied Feb 17, 2012', and 'rehearing of petition for review denied Mar 30, 2012'. A second event, '2. McMaster v. Small', is also visible in the history list.

**Step 5:** Review the subsequent history relevant to the case citation for which you are searching.

The detailed view shows the case citation **Small v. McMaster**, 352 S.W.3d 280 | Oct 20, 2011. Below the citation, the following events are listed:
 

- Tex.App.-Hous. (14 Dist.)** rehearing overruled Nov 16, 2011
- review denied Feb 17, 2012
- rehearing of petition for review denied Mar 30, 2012

**Step 6:** Identify the relevant writ or petition history by comparing the Westlaw history with the writ or petition history chart in the GREENBOOK or with the chart below:

**A**

**Small v. McMaster**  
352 S.W.3d 280 | Oct 20, 2011

**Tex.App.-Hous. (14 Dist.)**  
rehearing overruled Nov 16, 2011  
review denied Feb 17, 2012  
rehearing of **petition for review denied**  
Mar 30, 2012

NOTATIONS ON PETITIONS FOR REVIEW / CAUSES IN THE TEXAS SUPREME COURT		
Notation on Petitions (Abbreviations)	Rule Defining Notation	Meaning
Petition refused. (pet.ref'd)	Tex. R. App. R. 56.1(c)	The Supreme Court determines — after a response has been filed or requested — that the court of appeals' judgment is correct and the legal principles announced in the opinion are likewise correct. The court of appeals opinion has the same precedential value as an opinion of the Supreme Court.
Petition denied. (pet. denied)	Tex. R. App. P. 56.1(b)(1)	The Supreme Court is not satisfied that the opinion of the court of appeals has correctly declared the law in all respects, but determines that the petition presents no error that requires reversal or that is of such importance to the jurisprudence of the state as to require correction.
Petition dismissed, want of jurisdiction. (pet. dism'd w.o.j.)	Tex. R. App. P. 56.1(b)(2)	The Supreme Court lacks jurisdiction to consider the petition.
Petition dismissed. (pet. dism'd)	Tex. R. App. P. 60.6 The Supreme Court can dismiss a petition for failure to follow any of the rules of procedure, or by motion of the parties.	The Supreme Court has not reviewed the merits of the appeal.
Petition withdrawn. (pet. withdrawn)	The petitioner by motion, or the parties by joint motion, may request the petition be withdrawn. The grant of the motion results in the petition's withdrawal.	The Supreme Court has not reviewed the merits of the appeal.
Petition abated. (pet. abated)	Tex. R. App. P. 8.2 A bankruptcy suspends the appeal.	The Supreme Court has not reviewed the merits of the appeal, but may do so if the petition is reinstated.
Petition struck. (pet. struck)	Tex. R. App. P. 53.9	The Supreme Court has not reviewed the merits of the appeal, but has struck the petition for failure to comply with court rules.
Petition filed. (pet. filed)	Tex. R. App. P. 53.7 The petition has been timely filed, but the Court has taken no action on it.	The Supreme Court has not reviewed the merits of the appeal.
No petition history. (no. pet. hist.)	Tex. R. App. P. 53.7 No petition has been filed, but the time for filing has not yet run.	The Supreme Court has not reviewed the merits of the appeal.
No petition. (no pet.)	No petition has been filed, and the time for filing has expired.	The Supreme Court has not reviewed the merits of the appeal.

James Hambleton, Notations for Subsequent Histories in Civil Cases, 65 TEX. B.J. 684, 699 (2002).

**Step 7:** Capture the writ or petition history you need for your citation.

Petition for review denied = **pet. denied**



**Step 8:** Double check your work by following these sub-steps:

**Step 8A:** Type the citation for the case for which you need the writ or petition history into the search box.

The screenshot shows the Westlaw interface for the case 'Small v. McMaster'. The search bar at the top contains the citation '352 S.W.3d 280', which is circled in red. A pink arrow points from the text 'Type the citation for the case here' to this search bar. Below the search bar, the case title 'Small v. McMaster' is displayed, along with its court (Court of Appeals of Texas, Houston (14th Dist.)), date (October 20, 2011), and citation (352 S.W.3d 280). The toolbar includes tabs for 'Document', 'Filings (6)', 'Negative Treatment (0)', 'History (2)', 'Citing References (71)', and 'Table of Authorities'. The 'Citing References' tab is highlighted. Below the toolbar, the original image of the case is shown, including the case title, parties (John W. SMALL, Aiskel Alvarez Small, Robert Alan "Bob" Small, Small Interests, Ltd., Star Instruments, Inc. and Small Family Interests, Inc., Appellants; v. Murriah S. McMASTER, Appellee), and case details (No. 14-09-01080-CV, Oct. 20, 2011, Rehearing Overruled Nov. 16, 2011).

Type the citation for the case here

**Step 8B:** Once you pull up the correct case, click on the "citing references" tab of the Westlaw toolbar. Clicking on this tab will open up a list of all cases that cite to the case for which you originally searched.

The screenshot shows the 'Citing References' list for the case 'Small v. McMaster'. The 'Citing References (71)' tab is selected and circled in red. A pink arrow points from the text 'Beginning of the list of cases that cite the case for which you originally searched' to the first entry in the list. The list is sorted by 'Depth: Highest First' and shows two entries:

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	1. <b>Bailey v. Thompson</b> 2012 WL 4883219, *7+, Tex.App.-Hous. (14 Dist.) Appellant Jimmy O. Bailey appeals the trial court's judgment establishing that an informal marriage existed between Jimmy and appellee Christy Hoover Thompson. Jimmy also...	Oct. 16, 2012	Case	6	12 14 S.W.3d
Examined by	2. <b>Petition for Review</b>	Dec. 13, 2011	Petition	5	13

Beginning of the list of cases that cite the case for which you originally searched

**Step 8E:** Compare the writ or petition history recorded in the citation in the selected case with the writ or petition history you identified.

The petition history you identified = pet. denied

The petition history recorded in the selected case

= others that they were married. See *Tex. Fam.Code* § 2.401(a)(2) (Vernon 2006); *Small v. McMaster*, 352 S.W.3d 280, 282 (Tex.App.-Houston [14th Dist.] 2011, pet. denied). The existence of an informal marriage is a fact question, and the party seeking to establish existence of the marriage bears the burden of proving the three elements by a preponderance of the evidence. *Small*, 352 S.W.3d at 282–83. An informal marriage doe



### III. How to Generate a Cite with a Writ/Petition History

