

Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-07-00854-CV

Donald Eugene **CARTER**,
Appellant

v.

The **STATE** of Texas,
Appellee

From County Court at Law No. 8, Bexar County, Texas
Trial Court No. 764311
Honorable Karen Crouch, Judge Presiding

Opinion by: Sandee Bryan Marion, Justice

Sitting: Alma L. López, Chief Justice
Catherine Stone, Justice
Sandee Bryan Marion, Justice

Delivered and Filed: September 10, 2008

REVERSED AND REMANDED

This is an appeal from the trial court's denial of appellant's petition for nondisclosure of criminal history filed pursuant to Texas Government Code section 411.081, which provides in pertinent part as follows: "After notice to the state and a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication." TEX. GOV'T CODE ANN.

§ 411.081(d) (Vernon 2005). In the State’s letter brief, the State joins appellant’s request that this cause be remanded to the trial court “with specific instructions to grant the nondisclosure.” Neither appellant nor the State indicate whether the trial court conducted a hearing on the petition, and it appears from the record on appeal that no such hearing was held. Also, there is no indication the trial court made a determination that nondisclosure was *not* in the best interest of justice. Therefore, it appears the trial court erred by not conducting a hearing on the issue of whether nondisclosure served the interest of justice.

CONCLUSION

We reverse the trial court’s order and remand for further proceedings consistent with this opinion.

Sandee Bryan Marion, Justice

