

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



MEMORANDUM OPINION

No. 04-08-00784-CR

IN RE Dempsey L. SUTTON

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Alma L. López, Chief Justice
Santee Bryan Marion, Justice
Rebecca Simmons, Justice

Delivered and Filed: November 19, 2008

PETITION FOR WRIT OF MANDAMUS DENIED AS MOOT

On October 23, 2008, relator Dempsey L. Sutton filed a petition for writ of mandamus, seeking to compel the trial court to rule relator's second motion for post-conviction DNA testing. On October 30, 2008, the trial court signed an order denying relator's second motion for post-conviction DNA testing. In light of the trial court's action, the complaint presented in relator's petition is now moot. Accordingly, the petition for writ of mandamus is denied as moot.

PER CURIAM

DO NOT PUBLISH

¹ This proceeding arises out of Cause No. 1985-CR-1279A, styled *State of Texas v. Dempsey Leon Sutton*, in the 186th Judicial District Court, Bexar County, Texas, the Honorable Maria Teresa Herr presiding.