

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



**MEMORANDUM OPINION**

No. 04-10-00669-CR

**IN RE Tony ALCORTA**

Original Mandamus Proceeding<sup>1</sup>

PER CURIAM

Sitting: Karen Angelini, Justice  
Phylis J. Speedlin, Justice  
Marialyn Barnard, Justice

Delivered and Filed: September 29, 2010

PETITION FOR WRIT OF MANDAMUS DENIED

On September 16, 2010, relator Tony Alcorta filed a petition for writ of mandamus, complaining of the trial court's failure to rule on his *pro se* "Petition for Writ of Habeas Corpus for Release Because of Failure to Prosecute and Speedy Trial Violation." However, counsel has been appointed to represent relator in the criminal proceeding pending in the trial court for which he is currently confined. A criminal defendant is not entitled to hybrid representation. *See Robinson v. State*, 240 S.W.3d 919, 922 (Tex. Crim. App. 2007); *Patrick v. State*, 906 S.W.2d 481, 498 (Tex. Crim. App. 1995). A trial court has no legal duty to rule on *pro se* motions or petitions filed with regard to a criminal proceeding in which the defendant is represented by counsel. *See Robinson*, 240

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<sup>1</sup> This proceeding arises out of Cause No. 2009-CR-10302, styled *State of Texas v. Tony Alcorta*, pending in the 399th Judicial District Court, Bexar County, Texas, the Honorable Juanita Vasquez-Gardner presiding.

S.W.3d at 922. Consequently, the trial court did not abuse its discretion by declining to rule on relator's *pro se* petition filed in the criminal proceeding pending in the trial court. Accordingly, the petition is denied. TEX. R. APP. P. 52.8(a).

PER CURIAM

DO NOT PUBLISH