

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-17-00084-CR**

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**IN RE MARC DAVENPORT**

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**Original Proceeding**  
**221st District Court of Montgomery County, Texas**  
**Trial Cause No. 16-06-07318-CR**

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**MEMORANDUM OPINION**

On March 21, 2017, Marc Davenport filed a petition for a writ of mandamus challenging the trial court’s jurisdiction. A grand jury indicted Davenport for the offense of official misconduct, a class B misdemeanor. *See* Tex. Gov’t Code Ann. § 551.143 (West 2017).<sup>1</sup> The indictment alleges, in relevant part, that Davenport, “with the intent to promote or assist the commission of the offense described [in the indictment], [did] solicit, encourage, direct, aid or attempt to aid Jim Clark or Charlie

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<sup>1</sup> We cite to the current version of the statute as subsequent amendment does not affect our disposition.

Riley or Craig Doyal who, did then and there as a member of . . . the Montgomery County Commissioner’s Court, knowingly conspire to circumvent” the Open Meetings Act “by meeting in a number less than a quorum for the purpose of secret deliberations in violation of the Texas Open Meetings Act[.]” Davenport contends the district court has a ministerial duty to grant Davenport’s motion to dismiss for lack of jurisdiction because he contends that he is not a public servant and therefore the district court lacks jurisdiction over this proceeding and the matter can only be heard in the county court at law. After reviewing the mandamus petition and record, we conclude that Davenport has failed to show why a challenge on direct appeal would be an inadequate remedy. *See In re State ex rel. Weeks*, 391 S.W.3d 117, 121-22 (Tex. Crim. App. 2013); *Smith v. Gohmert*, 962 S.W.2d 590, 592-93 (Tex. Crim. App. 1998). We deny the petition for a writ of mandamus. *See generally* Tex. R. App. P. 52.8(a).

PETITION DENIED.

PER CURIAM

Submitted on March 22, 2017  
Opinion Delivered March 23, 2017  
Do Not Publish

Before McKeithen, C.J., Horton and Johnson, JJ.