



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-15-00093-CV

IN RE VERNON WAYNE MOONEY, RELATOR

OPINION ON ORIGINAL PROCEEDING FOR WRIT OF MANDAMUS

April 16, 2015

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Pending before the court is an application for writ of mandamus filed by Vernon Wayne Mooney. Mooney requests us to "issue a Writ of Mandamus directed to: Honorable, Don R. Emerson, District Judge of the 320th District Court of Potter County, Texas. . . ordering or compelling said judge to schedule or set a trial date in cause number 68596-D, styled the State of Texas vs. Vernon Wayne Mooney." We deny the petition as moot.

The record at bar reflects that Mooney has been indicted for murder which has been pending since December 2, 2010. However, according to the mandamus application, the indictment was amended on February 24, 2014, to include three counts for 1st and 2nd degree Injury to an Elderly Person and for manslaughter. In his

application Mooney represents that he has been incarcerated for five years and has made “six attempts, four of which were directly to the respondent, to assert his right to a speedy trial, and to alert the court and prosecutor that he desires a speedy trial, all of which have been routinely ignored.” Mooney contends that he received a copy of his indictment on April 4, 2011, and began a campaign to have counsel appointed and to have the matter set for trial. On August 15, 2013, Mooney was arraigned and counsel was appointed. Subsequently, the indictment was dismissed and relator was re-indicted with the aforementioned counts. According to the mandamus application, Mooney continued to assert his right to a speedy trial without assistance of counsel. Subsequently, counsel withdrew from representation, according to the application.

Opportunity to respond to the application was afforded the trial court. Thereafter, the court received certified records from the district clerk of Potter County, Texas, and the 320th Judicial District. Those records, which include a copy of a judgment, disclose that Mooney pled guilty on Count II of the new indictment (Trial Court Cause No. 69596-D), was sentenced on April 8, 2015, and was represented by counsel at that time. They also reveal that the State dismissed Counts I and III. Because Mooney has received the relief he requested in his application for a writ of mandamus, we do not address the merits of the application.

Consequently, we grant the motion for leave to file an application for a writ of mandamus and the application for writ of mandamus is denied as moot.

Brian Quinn
Chief Justice