



IN THE
TENTH COURT OF APPEALS

No. 10-10-00290-CR

IN RE LUTHER GABRIEL

Original Proceeding

MEMORANDUM OPINION

Luther Gabriel seeks a writ of mandamus compelling Respondent, the Honorable Deborah Oakes Evans, Judge of the 87th District Court of Freestone County, to rule on his motion for post-conviction DNA testing. The State has filed a response demonstrating that Respondent has ruled on Gabriel's motion.¹ Therefore, the petition for writ of mandamus is dismissed as moot. See *In re Luna*, 317 S.W.3d 484, 484 (Tex. App.—Amarillo 2010, orig. proceeding); *In re Medrano*, No. 13-10-00122-CR, 2010 Tex. App. LEXIS 1988, at *1-2 (Tex. App.—Corpus Christi Mar. 16, 2010, orig. proceeding) (per curiam) (not designated for publication).

¹ The State attached a certified copy of the docket sheet in the underlying cause to its response which reflects that Respondent denied Gabriel's motion for post-conviction DNA testing on October 4, 2010 because "1) No evidence exists to be subjected to DNA [testing], and 2) There was never any biological evidence collected that still exists or ever existed that could be tested for DNA."

FELIPE REYNA
Justice

Before Chief Justice Gray,
Justice Reyna, and
Justice Davis

Petition dismissed as moot

Opinion delivered and filed October 20, 2010

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