



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

	§	No. 08-21-00199-CR
EX PARTE:	§	Appeal from the
BILAL MUHAMMAD,	§	168th Judicial District Court
Relator.	§	of El Paso County, Texas
	§	(TC# 2016D01015)

MEMORANDUM OPINION

Appellant, appearing pro se, has filed a motion for voluntary dismissal of this appeal. He appealed from the trial court's denial of a writ of habeas corpus that complained of a bail ruling.¹ Appellant is represented by counsel below, but that counsel did not sign the notice of appeal, nor otherwise appear in this appeal. His criminal case is still pending below, where he is still represented by counsel.

Texas Rule of Appellate Procedure 42.2(a) allows for voluntary dismissals in criminal appeals where the attorney and defendant both sign a written motion to dismiss. Based on our record, we conclude that Appellant's motion complies with the requirements of Rule 42.2(a). Pro

¹ Appellant had been released on bail which the trial court revoked on June 16, 2021, and replaced with a new bail obligation that Appellant was unable to meet.

se appeals are equally governed by Rule 42. *See Flores v. State*, No. 07-08-00256-CR, 2008 WL 4180296, at *1 (Tex.App.--Amarillo Sept.12, 2008, no pet.) (mem. op., not designated for publication) (stating that a pro se appeal could be dismissed in accordance with a motion signed by the appellant); *Guerra v. State*, No. 04-02-00135-CR, 2002 WL 1973854, at *1 (Tex.App.--San Antonio Aug. 28, 2002, no pet.) (per curiam) (not designated for publication) (stating that a pro se motion to dismiss signed by the appellant complied with the appellate rules pertaining to the voluntary dismissal of criminal appeals).

We note that Appellant’s trial counsel below has not signed the motion, but neither did that counsel ever appear in this proceeding. We are disinclined to require that counsel to appear and take a position on appeal that they never sanctioned. In the six years that this criminal case has been pending, Appellant has often attempted to engage in hybrid representation, filing pro se motions alongside those of his retained or appointed counsel. No court order has permitted the hybrid representation, and we cautioned in one of several pro se appellate proceedings in this case that “defendants are generally not entitled to hybrid representation in which they represent themselves while also being represented by appointed counsel, and a court, including an appellate court, is free to disregard any pro se motions presented by a defendant who is represented by counsel, since the pro se motion presents nothing for the court to review.” *In re Muhammad*, No. 08-21-00123-CR, 2021 WL 3629989, at *1 (Tex.App.--El Paso Aug. 17, 2021) (orig. proceeding).²

² On two other occasions Appellant has pursued relief from this Court through pro se filings. *Muhammad v. State*, No. 08-21-00134-CR, 2021 WL 4988308, at *1 (Tex.App.--El Paso Oct. 27, 2021, no pet.) (mem. op., not designated for publication). *Ex Parte Muhammad*, No. 08-16-00079-CR, 2016 WL 3563924, at *1 (Tex.App.--El Paso June 29, 2016, pet. ref’d) (mem. op., not designated for publication).

Based on the record here, this Court hereby **GRANTS** the motion for voluntary dismissal and **ORDERS** the appeal **DISMISSED** and that this decision be certified below for observance.

See TEX. R. APP. P. 42.2(a). All pending motions are denied as moot.

JEFF ALLEY, Justice

January 31, 2022

Before Rodriguez, C.J., Palafox, and Alley, JJ.

(Do Not Publish)