

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



MEMORANDUM OPINION

No. 04-09-00708-CR

IN RE Josephus DUNCAN

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Karen Angelini, Justice
Rebecca Simmons, Justice
Marialyn Barnard, Justice

Delivered and Filed: November 11, 2009

PETITION FOR WRIT OF MANDAMUS DENIED

Relator Josephus Duncan has filed a pro se petition for writ of mandamus, seeking to compel the trial court to rule on his pro se “Motion in Limine - Enhancement Counts,” “Motion for Quantitative Weight Analysis,” and “Motion to Set Aside Indictment.” However, Duncan is represented by retained counsel 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). A trial court has no legal duty to rule on a pro se motion filed with regard to a criminal proceeding in which the defendant is represented by

¹ This proceeding arises out of Cause No. 2009-CR-7450, styled *The State of Texas v. Josephus Duncan*, pending in the 227th Judicial District Court, Bexar County, Texas, the Honorable Philip Kazen presiding.

counsel. *Id.* Consequently, the trial court did not abuse its discretion by declining to rule on relator's pro se motions that relate directly to his confinement based on the criminal proceeding pending in the trial court. Accordingly, relator's petition for writ of mandamus is denied. TEX. R. APP. P. 52.8(a).

PER CURIAM

DO NOT PUBLISH