

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



MEMORANDUM OPINION

No. 04-11-00526-CR

IN RE Stephen BENITES

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Santee Bryan Marion, Justice
Marialyn Barnard, Justice

Delivered and Filed: August 10, 2011

PETITION FOR WRIT OF MANDAMUS DENIED AS MOOT

On July 25, 2011, relator filed a petition for writ of mandamus, complaining of the trial court's failure to rule on his motion for DNA testing. However, on July 29, 2011, the trial court signed an order denying relator's motion. Accordingly, the petition for writ of mandamus is DENIED AS MOOT. *See* TEX. R. APP. P. 52.8(a).

Additionally, relator filed an Application for Leave to File Petition for Writ of Mandamus. No leave is required to file a petition for writ of mandamus in this court. TEX. R. APP. P. 52. Therefore, relator's motion for leave to file is DENIED as moot.

PER CURIAM

DO NOT PUBLISH

¹ This proceeding arises out of Cause No. 2935-A, in the 216th Judicial District Court, Gillespie County, Texas, the Honorable N. Keith Williams presiding.