

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



MEMORANDUM OPINION

No. 04-12-00413-CR

IN RE Benjamin DENNEY

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Sandee Bryan Marion, Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: July 18, 2012

PETITION FOR WRIT OF MANDAMUS DENIED

Relator Benjamin Denney filed a *pro se* petition for writ of mandamus asserting the trial court abused its discretion in denying his *pro se* motion for speedy trial. The documentation attached to the petition, however, does not contain an order from the trial court ruling on Denney's motion, and the trial court clerk informed a deputy clerk of this court that no motion for speedy trial was filed in the pending criminal proceeding and no such ruling was made.

Denney acknowledges in his petition that he is represented by appointed counsel in the pending criminal proceeding. Because a criminal defendant is not entitled to hybrid representation, a trial court has no legal duty to rule on *pro se* motions or petitions filed with regard to a criminal proceeding in which the defendant is represented by counsel. *Robinson v.*

¹ This proceeding arises out of Cause No. 2011CR8568, styled *Benjamin Denney v. The State of Texas*, pending in the 437th Judicial District Court, Bexar County, Texas, the Honorable Lori I. Valenzuela presiding.

State, 240 S.W.3d 919, 922 (Tex. Crim. App. 2007). Consequently, the trial court would not have abused its discretion by declining to rule on Denney's *pro se* motions. Moreover, mandamus relief is not available with regard to rulings on speedy trial motions because there is an adequate remedy by appeal. *Smith v. Gohmert*, 962 S.W.2d 590, 593 (Tex. Crim. App. 1998); *In re Buchanan*, No. 04-08-00450-CR, 2008 WL 2923053, at *1 (Tex. App.—San Antonio Jul. 30, 2008, orig. proceeding) (not designated for publication). Accordingly, the petition for writ of mandamus is denied. TEX. R. APP. P. 52.8(a).

PER CURIAM

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