



IN THE
TENTH COURT OF APPEALS

No. 10-16-00410-CR

IN RE NELSON PARNELL, JR.

Original Proceeding

MEMORANDUM OPINION

In a Petition for Writ of Mandamus filed on December 6, 2016, Nelson Parnell, Jr. requests this Court to direct the trial court to dismiss Parnell's underlying case pursuant to Parnell's motions to dismiss for failure to provide a speedy trial. Parnell failed to serve the trial court as the respondent with the petition. *See* TEX. R. APP. P. 52.2; 9.5(a). However, to expedite a decision in this proceeding, we use Rule 2 to suspend the rules and overlook this deficiency. *See* TEX. R. APP. P. 2.

Parnell contends that he has filed two motions to dismiss in the trial court for failure to provide a speedy trial, the last one being filed on November 1, 2016.¹ He further

¹ Actually, Parnell filed a motion for a speedy trial and an application for a writ of habeas corpus. The difference does not impact the disposition of this proceeding but does impact the procedure used to review the trial court's rulings thereon once these rulings are made.

contends that the trial court has failed to rule on either of these motions. Rather than requesting a writ of mandamus to require the trial court to rule on his motions, Parnell requests that we order the trial court to dismiss his underlying case. This, we cannot do.

An appellate court can only compel a trial court to rule on a pending motion by a writ of mandamus; it cannot compel the trial court to rule in a certain way. *State ex rel. Young v. Sixth Judicial Dist. Court of Appeals at Texarkana*, 236 S.W.3d 207, 210 (Tex. Crim. App. 2007); *State ex rel. Curry v. Gray*, 726 S.W.2d 125, 128 (Tex. Crim. App. 1987); *In re Birdwell*, 393 S.W.3d 886, 892 (Tex. App.—Waco 2012, orig. proceeding). Because Parnell wants us to compel the trial court to rule in a certain way, Parnell’s Petition for Writ of Mandamus is denied.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Petition denied
Opinion delivered and filed December 14, 2016
Do not publish
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