

FOURTH COURT OF APPEALS OF TEXAS

Matthew Rose v. The State of Texas

No. 04-22-00028-CR (Tex. App.—San Antonio June 2, 2022) · No. 04-22-00028-CR · Decided June 2, 2022

SUMMARY

The Fourth Court of Appeals of Texas denied as moot appellant Matthew Rose’s motion to abate and request for appointment of new counsel because the trial court had already substituted John Michael Lamerson as counsel. The court stated that appellant’s brief was due on or before June 15, 2022.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas
WRITING FOR THE COURT	Per curiam
JURISDICTION	Texas
DECIDED	June 2, 2022
DOCKET	04-22-00028-CR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant moved to abate the appeal and requested appointment of different counsel. While the motion was pending, the trial court substituted John Michael Lamerson as appellant's counsel.
PRECEDENTIAL VALUE	Published
PARTIES	Matthew Rose v. The State of Texas

TOPICS

[appellate procedure](#) [mootness](#) [right to counsel](#) [criminal procedure](#)

PRACTICE AREAS

[criminal appellate procedure](#) [right to counsel](#)

QUESTIONS PRESENTED

1. Whether appellant's motion to abate the appeal and request for appointment of another attorney should be denied as moot after the trial court substituted new counsel.

HOLDINGS

1. The motion was denied as moot because the trial court had already substituted John Michael Lamerson as appellant's counsel.

KEY QUOTATIONS

“In light of the substitution, the pending motion is DENIED AS MOOT.”

FACTUAL BACKGROUND

Appellant's counsel sought abatement of the appeal and appointment of another attorney. The trial court subsequently entered an order substituting John Michael Lamerson as appellant's counsel. Because the requested substitution had occurred, the appellate motion no longer required adjudication.

PROCEDURAL HISTORY

The appeal was pending before the Fourth Court of Appeals of Texas. Appellant's counsel filed a motion to abate and request for appointment of another attorney on May 26, 2022. The trial court's May 26 order substituting John Michael Lamerson as counsel was filed in a supplemental clerk's record on May 27, 2022, and the appellate court denied the pending motion as moot.

DISPOSITION

dismissed

OPINION

PER CURIAM.

FILE COPY Fourth Court of Appeals San Antonio, Texas June 2, 2022 No. 04-22-00028-CR Matthew ROSE, Appellant v. The STATE of Texas, Appellee From the 81st Judicial District Court, Wilson County, Texas Trial Court No. CRW1910200 Honorable Lynn Ellison, Judge Presiding ORDER On May 26, 2022, appellant's counsel filed a motion to abate and a request for the appointment of another attorney to represent appellant.

On May 27, 2022, the trial court clerk filed a supplemental clerk's record, which includes an order signed by the trial court on May 26, 2022, that substituted John Michael Lamerson as appellant's counsel. In light of the substitution, the pending motion is DENIED AS MOOT. Appellant's brief is currently due on or before June 15, 2022 _____ Rebeca C. Martinez, Chief Justice IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 2nd day of June, 2022. _____
MICHAEL A. CRUZ, Clerk of Court