

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-22-00582-CR

Ex parte Robert Joseph Yezak

**FROM THE 299TH DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-DC-20-200222, HONORABLE KAREN SAGE, JUDGE PRESIDING**

MEMORANDUM OPINION

Robert Joseph Yezak has filed a pro se notice of appeal seeking review of the trial court’s failure to rule on his application for writ of habeas corpus filed in the trial court. The trial court has not yet addressed the merits of his application or conducted an evidentiary hearing regarding the application. “No appeal lies from the refusal to issue a writ of habeas corpus unless the trial court rules on the merits of the application.” *Ex parte Young*, 257 S.W.3d 276, 277 (Tex. App.—Beaumont 2008, no pet.); see *Ex parte Ratliff*, No. 03-04-00040-CR, 2004 WL 1686636, at *1 (Tex. App.—Austin July 29, 2004, no pet.) (mem. op., not designated for publication). Accordingly, we have no jurisdiction over this appeal. See *Ex parte Young*, 257 S.W.3d at 277.

To the extent that Yezak is seeking mandamus relief from this Court regarding an alleged failure to rule, we would be unable to grant relief. In his filings, Yezak notes that he is represented by appointed counsel in the proceedings below. A defendant has no right to “hybrid representation.” See *Ex parte Taylor*, 36 S.W.3d 883, 887 (Tex. Crim. App. 2001). To the extent that Yezak’s filings can be construed as a pro se mandamus petition, the absence of a right

to hybrid representation means that this Court cannot act on his petition. *See Gray v. Shipley*, 877 S.W.2d 806, 806 (Tex. App.—Houston [1st Dist.] 1994, orig. proceeding).

For these reasons, we dismiss this appeal for want of jurisdiction.

Thomas J. Baker, Justice

Before Justices Goodwin, Baker, and Kelly

Dismissed for Want of Jurisdiction

Filed: October 28, 2022

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