



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,220-01

IN RE ENRIQUE AROCHI, Relator

**ON APPLICATION FOR A WRIT OF MANDAMUS
CAUSE NO. 401-80513-2015
IN THE 401ST DISTRICT COURT OF COLLIN COUNTY**

Per curiam. Keller, P.J. would file and set.

OPINION

Relator has filed a motion for leave to file a writ of mandamus pursuant to the original jurisdiction of this Court. He requests that this Court order the district court to vacate its order removing appointed counsel and appointing different counsel on the pending appeal, *Arochi v. State*, 05-16-01208-CR (Tex. App.—Dallas).

On January 25, 2017, this Court held this application in abeyance and ordered the Honorable Mark Rusch to respond. Judge Rusch stated that he believed he could not permit trial counsel to remain as appointed counsel on appeal and compensate him in that capacity because after Relator's

trial, he no longer met the requirements to be appointed in Collin County. However, he met the requirements to be appointed at the time he was appointed to Relator's case, and this Court does not find that good cause exists to remove him as Relator's counsel. *See* TEX. CODE CRIM. PRO. art. 26.04(j)(2); *Stearnes v. Clinton*, 780 S.W.2d 216 (Tex. Crim. App. 1989); *Stotts v. Wisser*, 894 S.W.2d 366 (Tex. Crim. App. 1995).

We conditionally grant mandamus relief and direct the Respondent to vacate his order appointing Pamela Lakatos as appellate counsel, thereby allowing Steven Miears to continue as counsel for Relator on his pending appeal. The writ of mandamus will issue only in the event the Respondent fails to comply within thirty days of the date of this opinion.

Delivered: April 12, 2017

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