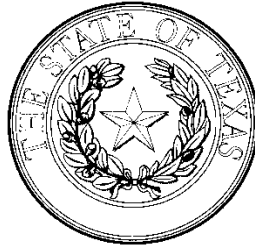


Opinion issued August 25, 2011



In The
Court of Appeals
For The
First District of Texas

NO. 01-11-00626-CR

IN RE VAN WATSON, JR., Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Van Watson, Jr., has filed a pro se petition for writ of mandamus, requesting that we issue a writ directing the Harris County Forensic Center to conclude its testing of DNA material relevant to the case and to return its findings

to the trial court.¹ Relator also requests that we issue a writ directing the trial court to comply with its original order for DNA testing, and that we issue a writ directing his attorney to inform relator of the results of the DNA testing.

Background

This is the second petition for writ of mandamus by relator on the same matter. This petition contains complaints similar to the first petition.

Relator was convicted of the felony offense of sexual assault of a child. Relator requested that the trial court appoint counsel to represent him for the purpose of post-conviction DNA testing. By order dated April 19, 2009, the trial court appointed Thomas Martin to represent relator. According to relator, DNA testing was performed in May 2010.

Analysis

Relator's petition for writ of mandamus is procedurally defective. A copy of all documents presented to the Court must be served on all parties to the proceeding, and a certificate of service representing service was performed must be attached to the document. *See* TEX. R. APP. P. 9.5(a), (d). Relator's petition lacks proof of service on the district attorney.

¹ Relator has identified the underlying case as *State v. Watson*, No. 699312, in the 180th District Court of Harris County, Texas, the Honorable Marc Brown presiding.

Moreover, relator acknowledges that Martin has been appointed to represent him for the purpose of post-conviction DNA testing in this case. Because the post-conviction DNA testing gives rise to the complaints in relator's petition, relator must look to appointed counsel for representation in this original proceeding. *See Gray v. Shipley*, 877 S.W.2d 806, 806 (Tex. App.—Houston [1st Dist.] 1994, orig. proceeding). Relator is not entitled to hybrid representation. *See Robinson v. State*, 240 S.W.3d 919, 922 (Tex. Crim. App. 2007). The absence of a right to hybrid representation means relator's pro se petition presents nothing for this Court to review. *Patrick v. State*, 906 S.W.2d 481, 498 (Tex. Crim. App. 1995).

Conclusion

We deny relator's petition for writ of mandamus.

Laura Carter Higley
Justice

Panel consists of Justices Keyes, Higley, and Huddle.

Do not publish. Tex. R. App. P. 47.2(b).