

Opinion issued November 3, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00702-CR

IN RE THOMAS LEE ALEXANDER, III, Relator

Original Proceeding on Petition for Writ of Habeas Corpus

MEMORANDUM OPINION

Relator, Thomas Lee Alexander, III, appearing pro se, has filed an application for a writ of habeas corpus.¹ Alexander's filing states that he has been indicted for the felony offense of failure to comply with sex offender registration requirements. *See* TEX. CODE CRIM. PROC. ANN. art 62.102. Alexander asserts that he has been

¹ The underlying case is *The State of Texas v. Thomas Lee Alexander, III*, Cause No. 19-CR-2458, in the 10th District Court of Galveston County, Texas, the Honorable Kerry L. Neves presiding.

held in the Galveston County Jail since June 29, 2019 awaiting trial. He seeks a writ compelling that he “be released immediately on personal recognizance conditioned” on his appearance for further trial court proceedings.

We dismiss Alexander’s application for lack of jurisdiction.

An intermediate court of appeals does not have original habeas jurisdiction in criminal law matters. *See* TEX. GOV’T CODE ANN. § 22.221(d) (original habeas jurisdiction of courts of appeals is limited to cases in which person’s liberty is restrained because person violated order, judgment, or decree entered in civil case); *Chavez v. State*, 132 S.W.3d 509, 510 (Tex. App.—Houston [1st Dist.] 2004, no pet.). Our habeas corpus jurisdiction in criminal matters is appellate only. *See* TEX. GOV’T CODE ANN. § 22.221(d); *Ex parte Denby*, 627 S.W.2d 435, 435 (Tex. App.—Houston [1st Dist.] 1981, orig. proceeding). Original habeas jurisdiction in criminal proceedings is limited to the Texas Court of Criminal Appeals, the district courts, and the county courts. *See* TEX. CODE CRIM. PROC. ANN. art. 11.05. Accordingly, to the extent that Alexander seeks to have this Court to grant his application for a writ of habeas corpus, we lack jurisdiction to do so.

Furthermore, the record establishes that Alexander is represented by counsel. Alexander is not entitled to hybrid representation in this Court, and, as such, his pro se application for a writ of habeas corpus presents nothing for this Court to review. *See Ex parte Bohannan*, 350 S.W.3d 116, 116 n.1 (Tex. Crim. App. 2011) (because

habeas applicant was represented by counsel, court must disregard and take no action on pro se filings); *Ex parte Halcy*, No. 07-16-00471-CR, 2016 WL 7634497, at *1 (Tex. App.—Amarillo Dec. 30, 2016, orig. proceeding) (mem. op., not designated for publication) (appellate court lacks jurisdiction over original habeas application filed pro se where applicant was represented by counsel).

Accordingly, we dismiss Alexander’s application for writ of habeas corpus² for lack of jurisdiction. All pending motions are dismissed as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Hightower and Adams.

Do not publish. TEX. R. APP. P. 47.2(b).

² Although Alexander’s filing is titled as “Pro Se Application for Writ of Habeas Corpus ad Subjiciendum Seeking Release from Confinement,” his filing also states that he “previous[ly] submitted an application for a writ of habeas corpus seeking a bond reduction” with the trial court, but his application had been “conveniently misplaced” and not considered by the trial court. While Alexander’s filing in this Court does not specifically request mandamus relief, this language could be construed as a request for this Court to issue a writ of mandamus to compel the trial court to rule on Alexander’s habeas application purportedly filed with the trial court. However, even in this situation, our disposition remains the same. Alexander’s purported petition for writ of mandamus would present nothing for this Court to review because a criminal defendant is not entitled to hybrid representation. *See Patrick v. State*, 906 S.W.2d 481, 498 (Tex. Crim. App. 1995) (because appellant was represented by counsel and was not entitled to hybrid representation, appellant’s pro se supplemental brief presented nothing for review); *Gray v. Shipley*, 877 S.W.2d 806, 806 (Tex. App.—Houston [1st Dist.] 1994, orig. proceeding) (overruling pro se motion for leave to file mandamus petition because relator was represented by appointed trial counsel and not entitled to hybrid representation).