

Opinion issued July 13, 2021



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-21-00335-CR

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**IN RE THOMAS LEE ALEXANDER III, Relator**

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**Original Proceeding on Petition for Writ of Mandamus**

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**MEMORANDUM OPINION**

Relator, Thomas Lee Alexander III, appearing pro se, has filed petition for writ of mandamus, requesting that this Court require the trial court to “honor, respond, and show cause why [Alexander] continues to be detained.”<sup>1</sup> Alexander’s mandamus petition states that he has been indicted for the felony offense of failure

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<sup>1</sup> 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.

to comply with sex offender registration requirements. *See* TEX. CODE CRIM. PROC. ANN. art. 62.102. Alexander further states that he filed a pro se pretrial application for writ of habeas corpus on May 3, 2021, and that as of “May 11, 2021, no action ha[d] been taken” by the trial court in connection with his habeas application. However, Alexander’s mandamus petition also states that, on June 10, 2021, a judgment of conviction was entered by the trial court, convicting Alexander of the indicted felony offense. A jury assessed Alexander’s punishment at confinement for forty years.

We dismiss Alexander’s petition for lack of jurisdiction.

Although Alexander has filed his petition for writ of mandamus with this Court pro se, a review of the record establishes that, in the underlying case, Alexander is represented by court-appointed counsel.<sup>2</sup>

Criminal defendants are generally not entitled to hybrid representation and a “trial court is free to disregard any pro se motions presented by a defendant who is represented by counsel.” *Robinson v. State*, 240 S.W.3d 919, 922 (Tex. Crim. App. 2007) (emphasis omitted). As such, “a trial court’s decision not to rule on a pro se motion” is not “subject to review.” *Id.* (emphasis omitted). Similarly, Alexander is

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<sup>2</sup> At the time Alexander filed his May 3, 2021 pro se pretrial application for pre-trial writ of habeas corpus, Alexander was represented by court-appointed counsel Ben Sullivant. On June 10, 2021, after conclusion of Alexander’s trial, the trial court entered an order allowing Mr. Sullivant to withdraw as counsel for Alexander. The trial court appointed Mark W. Stevens as appellate counsel for Alexander.

not entitled to hybrid representation in this Court, and his pro se petition for writ of mandamus presents nothing for this Court to review. *See Ex parte Bohannon*, 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); see also *Gray v. Shipley*, 877 S.W.2d 806, 806 (Tex. App.—Houston [1st Dist.] 1994, no writ) (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).

Alternatively, even if we could exercise jurisdiction over Alexander's pro se petition for writ of mandamus, he would not be entitled to mandamus relief. As noted above, while Alexander asserts that he filed a pro se pretrial application for writ of habeas corpus on May 3, 2021, both the record and Alexander's pro se petition for writ of mandamus reflect that a judgment of conviction was entered by the trial court on June 10, 2021. Accordingly, Alexander is no longer subject to pretrial confinement, and any challenge to his pro se pretrial application for writ of habeas corpus has been rendered moot. *See Martinez v. State*, 826 S.W.2d 620, 620 (Tex. Crim. App. 1992) (dismissing as moot appeal from trial court denial of pretrial

application for writ of habeas corpus where defendant was “convicted of the underlying offense and [wa]s no longer subject to pre-trial confinement”).

Accordingly, we dismiss Alexander’s pro se petition for writ of mandamus for lack of jurisdiction. All pending motions are dismissed as moot.

**PER CURIAM**

Panel consists of Justices Kelly, Guerra, and Farris.

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