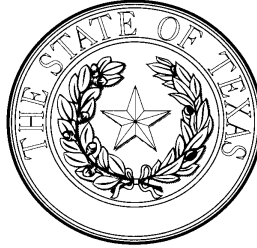


Opinion issued March 1, 2022



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

NO. 01-22-00107-CR

NO. 01-22-00108-CR

IN RE JOSEPH T. ROBERTS, Relator

Original Proceeding on Petition for Writ of Injunction

MEMORANDUM OPINION

Relator, Joseph T. Roberts, has filed a petition for writ of injunction, claiming that he has not been “allowed” a competency hearing but that the trial court has issued an order, allegedly transferring him to the Rusk State Hospital for evaluation

and treatment.¹ Thus, it appears that relator is asking this Court to enjoin the trial court from transferring him to Rusk State Hospital without first having a competency hearing.

We first note that relator states he is represented in the trial court by appointed counsel. A pro se relator in a criminal case who is represented by appointed counsel is not entitled to hybrid representation, and thus, his pro se petition presents nothing for review. *See Patrick v. State*, 906 S.W.2d 481, 498 (Tex. Crim. App. 1995); *In re Guillory*, No. 01-20-00510-CR & No. 01-20-00511-CR, 2020 WL 4289973, at *1 (Tex. App.—Houston [1st Dist.] July 28, 2020, orig. proceeding) (mem. op.).

Moreover, relator has presented no record supporting his contentions. A relator filing an original proceeding must include every document material to his claim that was filed in the underlying proceeding. *See* TEX. R. APP. P. 52.7(a)(1). Absent a sufficient record, relator has not established his entitlement to relief.

Finally, a writ of injunction issues only “to enforce or protect the appellate court’s jurisdiction.” *In re Oko*, No. 14-15-00780-CV, 2015 WL 5825123, at *1 (Tex. App.—Houston [14th Dist.] Oct. 2, 2015, orig. proceeding) (mem. op.); *In re Miles*, No. 01-19-00053-CR, 2019 WL 1064577, at *1 (Tex. App.—Houston [1st Dist.] Mar. 7, 2019, orig. proceeding) (mem. op.); TEX. GOV’T CODE § 22.221(a).

¹ The underlying case is *The State of Texas v. Joseph T. Roberts*, cause numbers 21DCR0095 & 21DCR0097, pending in the 253rd District Court of Chambers County, Texas, the Honorable Chap B. Cain presiding.

Issuance of a writ of injunction is limited to cases in which we have actual jurisdiction over a pending proceeding and the failure to grant relief would result in the appeal becoming moot and the subject matter destroyed. *See In re Johnson*, No. 01-06-00805-CR & No. 01-07-00817-CV, 2007 WL 2963685, at *1 (Tex. App.—Houston [1st Dist.] Oct. 11, 2007, orig. proceeding) (mem. op.); *Becker v. Becker*, 639 S.W.2d 23, 24 (Tex. App.—Houston [1st Dist.] 1982, no writ). Thus, relator is not entitled to injunctive relief because he has not shown that an appeal is pending. *See Johnson*, 2007 WL 2963685, at *1. And, even if we could construe this to be a petition for writ of mandamus, relator is not entitled to relief as a pro se relator because he is represented by appointed counsel, and he has not presented a record sufficient to support relief.

Accordingly, we deny the petition.

PER CURIAM

Panel consists of Justices Landau, Hightower, and Rivas-Molloy.

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