

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-08-00763-CR

**IN RE Eugene SULLIVAN**

Original Mandamus Proceeding<sup>1</sup>

PER CURIAM

Sitting: Alma L. López, Chief Justice  
Rebecca Simmons, Justice  
Steven C. Hilbig, Justice

Delivered and Filed: November 12, 2008

PETITION FOR WRIT OF MANDAMUS DENIED

On October 15, 2008, relator Eugene Sullivan filed a petition for writ of mandamus, complaining of the trial court's failure to rule on various motions. Counsel has been appointed to represent relator in the trial court. We conclude that relator's appointed counsel in the trial court is also his counsel for an original proceeding on the issue presented.

To obtain mandamus relief in a criminal matter, the relator must establish: (1) the act sought to be compelled is ministerial rather than discretionary in nature, and (2) there is no adequate remedy at law. *Deleon v. District Clerk*, 187 S.W.3d 473, 474 (Tex. Crim. App. 2006). Respondent has no ministerial duty to rule on relator's pro se motion because relator is represented by appointed counsel

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<sup>1</sup> This proceeding arises out of Cause No. 2008-CR-8073, styled *State of Texas v. Eugene Sullivan*, pending in the 226th Judicial District Court, Bexar County, Texas, the Honorable Sid J. Harle presiding.

and is not entitled to hybrid representation. *See Robinson v. State*, 240 S.W.3d 919, 922 (Tex. Crim. App. 2007); *Patrick v. State*, 906 S.W.2d 481, 498 (Tex. Crim. App. 1995). Consequently, the respondent did not violate a ministerial duty by declining to rule on relator's motion. Therefore, this court has determined that relator is not entitled to the relief sought. Accordingly, relator's petition for writ of mandamus is denied. TEX. R. APP. P. 52.8(a).

PER CURIAM

DO NOT PUBLISH