

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



MEMORANDUM OPINION

No. 04-12-00619-CR

IN RE Billy ETHINGTON

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Phylis J. Speedlin, Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: October 10, 2012

PETITION FOR WRIT OF MANDAMUS DENIED

On September 25, 2012, relator Wilbert P. Stewart filed a petition for writ of mandamus, complaining of the trial court's failure to rule on his pro se petition for writ of habeas corpus. However, counsel has been appointed to represent relator in the criminal proceeding pending in the trial court for which he is currently confined. A criminal defendant 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). A trial court has no legal duty to rule on pro se motions or petitions filed with regard to a criminal proceeding in which the defendant is represented by counsel. *See Robinson*, 240 S.W.3d at 922. Consequently, the trial court did not

¹ This proceeding arises out of Cause Nos. 2012-CR-2040 and 2011-CR-6447, styled *State of Texas v. Billy Ethington*, pending in the 175th Judicial District Court, Bexar County, Texas, the Honorable Mary Ramon presiding.

abuse its discretion by declining to rule on relator's *pro se* petition for writ of habeas corpus filed in the criminal proceeding pending in the trial court. Accordingly, the petition for writ of mandamus is denied. TEX. R. APP. P. 52.8(a).

PER CURIAM

DO NOT PUBLISH