



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00710-CR

IN RE Gary WAFFORD

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Marialyn Barnard, Justice
Patricia O. Alvarez, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: October 23, 2013

PETITION FOR WRIT OF MANDAMUS DENIED

Relator Gary Wafford filed this pro se petition for writ of mandamus on October 16, 2013, complaining of the trial court's failure to rule on a motion for rehearing. Relator has been appointed trial counsel to represent him in connection with his pending criminal charges. We conclude that any original proceeding on the issue presented should be raised by relator's trial counsel. Relator is not entitled to hybrid representation. *See Patrick v. State*, 906 S.W.2d 481, 498 (Tex. Crim. App. 1995). The absence of a right to hybrid representation means relator's pro se mandamus petition will be treated as presenting nothing for this court's review. *See id.*; *see also Gray v. Shipley*, 877 S.W.2d 806, 806 (Tex. App.—Houston [1st Dist.] 1994, orig. proceeding). Accordingly, relator's petition for writ of mandamus is denied. *See TEX. R. APP. P. 52.8(a)*.

¹ This proceeding arises out of Cause No. 10-1664-CR, styled *The State of Texas v. Gary Wafford*, pending in the 25th Judicial District Court, Guadalupe County, Texas, the Honorable Dwight E. Peschel presiding.

Additionally, relator filed an Application for Leave to File Petition for Writ of Mandamus. No leave is required to file a petition for writ of mandamus in this court. TEX. R. APP. P. 52. Therefore, relator's motion for leave to file is denied as moot.

PER CURIAM

DO NOT PUBLISH