



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00746-CR

IN RE Robert MARTINEZ

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Marialyn Barnard, Justice

Delivered and Filed: November 6, 2013

PETITION FOR WRIT OF MANDAMUS DENIED

Relator Robert Martinez filed this pro se petition for writ of mandamus on October 28, 2013, complaining of the trial court's failure to rule on two petitions for writs of habeas corpus which relator asserts were filed in August 2013 in the underlying criminal case. Relator has been appointed trial counsel to represent him in connection with the criminal charges pending against him. We conclude that any original proceeding on the issue presented should be asserted 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.

¹ This proceeding arises out of Cause No. 2013CR4546, styled *The State of Texas v. Robert Martinez*, pending in the 186th Judicial District Court, Bexar County, Texas, the Honorable Maria Teresa Herr presiding.

proceeding). Accordingly, relator's petition for writ of mandamus is denied. *See* TEX. R. APP. P. 52.8(a).

Additionally, relator requested leave to file his mandamus petition. 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DO NOT PUBLISH