



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-15-00746-CR

IN RE Phillip HARVEY

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Marialyn Barnard, Justice
Patricia O. Alvarez, Justice
Jason Pulliam, Justice

Delivered and Filed: December 9, 2015

PETITION FOR WRIT OF MANDAMUS DENIED

Relator Phillip Harvey filed this pro se petition for writ of mandamus on November 19, 2015, complaining of the trial court's failure to set the underlying criminal proceeding for trial. Relator has not established a clear right to the relief sought. *See In re State ex rel. Weeks*, 391 S.W.3d 117, 122 (Tex. Crim. App. 2013). In addition, relator has been appointed trial counsel to represent him in connection with the criminal charges currently pending against him. We conclude that any original proceeding on the issue raised should be presented 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.*

¹ This proceeding arises out of Cause No. 2013CR11060, styled *The State of Texas v. Phillip Harvey*, pending in the 399th Judicial District Court, Bexar County, Texas, the Honorable Ray Olivarri presiding.

Shiple, 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).

PER CURIAM

DO NOT PUBLISH