

NO. 07-09-0279-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
AUGUST 26, 2009

IN RE DAN VERNON WEST, RELATOR

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

ON PETITION FOR WRIT OF MANDAMUS

Relator Dan Vernon West, acting *pro se*, has filed in this court a petition for mandamus asking that we order the Hon. John B. Board, judge of the 181st District Court of Randall County, to recuse himself or request the presiding judge of the administrative judicial district to assign a judge to hear the motion.

According to his petition, the relief relator seeks in this original proceeding relates to trial court cause number 19,298-B, pending in the 181st District Court, a criminal case in which relator is the defendant. Although relator is represented by counsel in that proceeding, his recusal motion also was filed *pro se*.

Relator is not entitled to hybrid representation here or in the trial court. See *Patrick v. State*, 906 S.W.3d 481, 498 (Tex.Crim.App. 1995); *Gray v. Shipley*, 877 S.W.2d 806

(Tex.App.–Houston [1st Dist.] 1994, orig. proceeding). Because the issues raised in his *pro se* petition for writ of mandamus relate directly to a criminal proceeding in which relator is represented by counsel, we find the absence of a right for hybrid representation means his *pro se* petition presents nothing for our consideration. *Patrick*, 906 S.W.2d at 498; see *In re Jones*, No. 04-06-00026-CV, 2006 WL 286782 (Tex.App.–San Antonio Feb. 8, 2006, orig. proceeding) (mem. op.). Moreover, a trial court has no legal duty to rule on a *pro se* motion filed in that proceeding by an accused who is represented by counsel. See *Robinson v. State*, 240 S.W.3d 919, 922 (Tex.Crim.App. 2007) (trial court free to rule on, or disregard, motion filed *pro se* by defendant represented by counsel). Accordingly, relator’s petition for writ of mandamus is dismissed.

James T. Campbell
Justice