

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-12-00756-CV

In re Randy Gourley

ORIGINAL PROCEEDING FROM WILLIAMSON COUNTY

MEMORANDUM OPINION

PER CURIAM

Carolyn Barnes, acting as attorney for Randy Gourley in the underlying criminal case, presented this Court with an application for writ of mandamus and motion for leave to proceed without payment of costs. The application and motion incorporate by reference allegations in Barnes's appeal from an August 28, 2012 renewal order of her civil commitment with charges pending. In that matter, the trial court found Barnes was incompetent to stand trial and appointed counsel to represent her. *See Barnes v. State*, No. 03-12-00631-CV. Barnes is currently committed to the Kerrville State Hospital. We question whether Barnes, having been found incompetent to stand trial in her own matter, may represent Gourley in this separate matter.

We therefore abate this original proceeding and remand this cause to the county court at law for a determination of whether Barnes may represent Gourley, and if not, whether Gourley is indigent and should have counsel appointed to represent him. *See Tex. R. App. P. 38.8(b)*. When the court has made its appropriate findings and recommendations, the record shall be forwarded to the clerk of this Court for filing no later than January 14, 2013, unless the court

notifies this Court that more time is required. This original proceeding will be reinstated after the clerk's record is filed.

Before Chief Justice Jones, Justices Rose and Goodwin

Abated

Filed: November 28, 2012