

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-08-00611-CR

**IN RE Michael GOMEZ**

Original Mandamus Proceeding<sup>1</sup>

PER CURIAM

Sitting: Karen Angelini, Justice  
Phylis J. Speedlin, Justice  
Rebecca Simmons, Justice

Delivered and Filed: September 17, 2008

PETITION FOR WRIT OF MANDAMUS DISMISSED

On August 13, 2008, relator Michael Gomez filed a petition for writ of mandamus, seeking to compel the trial court to correct the judgment in the underlying criminal matter to reflect additional presentence jail time credit. On August 21, 2008, this court requested the State file a response to relator's petition.

On September 5, 2008, the State filed a response, agreeing that relator is entitled to additional presentence jail time credit. The State further informed this Court that the trial court issued a Judgment Nunc Pro Tunc on September 4, 2008. The judgment states, "It appears to the Court that the order entered in the above entitled cause on November 14, 2006 is incorrect as it

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<sup>1</sup>This proceeding arises out of Cause No. 97-09-0208-CRA, filed in the 218th Judicial District Court, Atascosa County, Texas, the Honorable Stella H. Saxon presiding. However, the challenged order was signed by the Honorable Donna Rayes, presiding judge of the 81st Judicial District Court, Atascosa County, Texas.

appears on the minutes of the Court . . . . It further appears that the foregoing omission occurred because of an oversight.” The judgment then orders that the original judgment reflect the following time to be credited to relator’s sentence: July 29, 1997 to August 12, 1997; July 12, 2003 to October 24, 2003; December 29, 2003 to December 30, 2003; and December 20, 2005 to October 26, 2006. Because relator has been granted the relief he sought, his petition for writ of mandamus is dismissed as moot.

PER CURIAM

DO NOT PUBLISH